CITY OF SHAKOPEE, MINNESOTA
CODE OF ORDINANCES

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ADOPTING ORDINANCE

ORDINANCE NO. 919

AN ORDINANCE ENACTING A CITY CODE FOR THE CITY OF SHAKOPEE, MINNESOTA AMENDING, RESTATING, REVISING, UPDATING, RE-CODIFYING AND COMPILING CERTAIN ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS EMBRACED IN THE CITY CODE, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE CITY CODE.

WHEREAS, Minnesota Statutes Sections 415.02 and 415.021 authorize the City of Shakopee to cause its ordinances to be codified and printed in a book;

WHEREAS, The City previously codified its ordinances in 1978; and

WHEREAS, The City now desires to recodify its current City Code and ordinances.

NOW THEREFORE the City Council of the City of Shakopee, Minnesota ordains:

Section 1. The general ordinances of the City as amended, restated, revised, updated, codified and compiled in book form, including penalties for the violations of various provisions thereof, are hereby adopted and shall constitute the "City Code of the City of Shakopee." This City Code adopts by reference certain statutes and administrative rules of the State of Minnesota as named in the City Code.

Section 2. The City Code as adopted in Section 1 shall consist of the following titles:

TITLE I: GENERAL PROVISIONS

TITLE III: ADMINISTRATION

TITLE V: PUBLIC WORKS

TITLE VII: TRAFFIC CODE

TITLE IX: GENERAL REGULATIONS

TITLE XI: BUSINESS REGULATIONS

TITLE XIII: GENERAL OFFENSES

TITLE XV: LAND USAGE

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Section 3. All prior ordinances, pertaining to the subjects treated in the City Code, shall be deemed repealed from and after the effective date of this ordinance, except as they are included and re-ordained in whole or in part in the City Code; provided, this repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the City Code. All fees established in prior ordinances codified in this Code shall remain in effect unless amended in this code or until an ordinance adopting a fee schedule is adopted or amended.

Section 4. This ordinance adopting the City Code shall be a sufficient publication of any ordinance included in it and not previously published in the City's official newspaper. The Clerk of the City shall cause a substantial quantity of the City Code to be printed for general distribution to the public at actual cost and shall furnish a copy of the City Code to the County Law Library or its designated depository. The official copy of this City Code shall be marked and be kept in the office of the City Clerk.

Section 5. The City Code is declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by Minnesota Statutes by the Courts of the State of Minnesota.

Section 6. This ordinance adopting the City Code, and the City Code itself, shall take effect upon publication of this ordinance in the City's official newspaper.

Adopted in adjourned regular session of the City Council of the City of Shakopee, Minnesota held this 20th day of October, 2015.

_____

Mayor of the City of Shakopee

ATTEST:

_____

City Clerk

Published in the Shakopee Valley News on the 29th day of October, 2015.

TITLE I: GENERAL PROVISIONS

Chapter

CHAPTER 10: GENERAL PROVISIONS

Section

§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the "Shakopee City Code", for which designation "code of ordinances", "codified ordinances", or "code" may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any

component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "§" followed by the number, such as "§ 10.01". Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 RULES OF INTERPRETATION.

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

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

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

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

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

CITY. The City of Shakopee, Minnesota. The term ***CITY*** when used in this code may also be used to refer to the City Council and its authorized representatives.

CITY ADMINISTRATOR. The person duly appointed by the Council and acting in such capacity.

CITY CLERK. The person duly appointed by the Council and acting in such capacity.

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

CONVICTION. Either of the following accepted and recorded by the Court:

(a) A plea of guilty; or

(b) A verdict of guilty by a jury or a finding of guilty by the Court.

COUNCIL. The City Council of Shakopee, Minnesota.

COUNTY. Scott County, Minnesota.

CRIME. Conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.

EX-OFFICIO MEMBER. A person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within that person's discretion) to speak to any question coming before the board, commission, or other deliberative body of which the person is such member.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

MAY. The act referred to is permissive.

MISDEMEANOR. The crime for which a sentence of not more than 90 days or a fine of not more than $700, or both, may be imposed.

MONTH. A calendar month.

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

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

ORDINANCE. An ordinance duly adopted by the City Council of Shakopee, Minnesota.

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

PETTY MISDEMEANOR. An offense, which does not constitute a crime, and for which a sentence of a fine of not more than $200 may be imposed.

POLICE OFFICER.POLICE OFFICER and ***PEACE OFFICER*** mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.

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

PREMISES. Any lot, piece, or parcel of land within a continuous boundary whether publicly or privately owned, occupied, or possessed.

PRIVATE PROPERTY. All property not included within the definition of public property or public place.

PUBLIC PROPERTY.PUBLIC PROPERTY and ***PUBLIC PLACE*** mean any place, property, or premises dedicated to public use, owned by the city, occupied by the city as a lessee, or occupied by the city as a street by reason of an easement, including, but not limited to, streets, parks, or parking lots so occupied.

ROADWAY. The portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes 2 or more separate roadways, the term ***ROADWAY*** as used herein shall refer to any such roadway separately but not to all such roadways collectively.

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

STREET. The entire area dedicated to public use, or contained in an easement or other conveyance or grant to the city, and shall

include, but not be limited to, roadways, boulevards, sidewalks, alleys, avenues, and other public property between lateral property lines in which a roadway lies.

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

VIOLATE. Includes failure to comply with.

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

YEAR. A calendar year, unless otherwise expressed.

(2013 Code, § 1.01) (Ord. 1, passed 4-1-1978; Ord. 50, passed 1-1-1981; Ord. 120, passed 7-28-1983; Ord. 177, passed 8-22-1985; Ord. 254, passed 10-14-1988; Ord. 317, passed 8-29-1991; Ord. 337, passed 7-23-1992)

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

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

§ 10.12 ORDINANCES REPEALED.

(A) This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced.

(B) All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

§ 10.18 COPIES OF CODE.

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

§ 10.19 ADOPTION OF STATUTES AND RULES AND SUPPLEMENTS BY REFERENCE.

(A) It is the intention of the City Council that, when adopting this code or ordinances, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code of ordinances are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) It is the intention of the City Council that, when adopting this code of ordinances, all future supplements are hereby adopted as if they had been in existence at the time this Code was enacted, unless there is clear intention expressed in the Code to the contrary.

§ 10.20 ENFORCEMENT.

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

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

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

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

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Clerk or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Clerk to object to the termination before it occurs, subject to appeal of the City Clerk's decision to the City Council at a regularly scheduled or special meeting.

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

§ 10.21 OTHERWISE UNLAWFUL.

The code of ordinances does not authorize an act or omission otherwise prohibited by law.

(2013 Code, § 1.04) (Ord. 1, passed 4-1-1978)

§ 10.22 PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES.

All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule, or regulation of the city shall be paid into the City Treasury by the court or officer thereof receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided by law.

(2013 Code, § 1.06) (Ord. 1, passed 4-1-1978)

§ 10.23 REFERENCE TO A PUBLIC OFFICIAL.

Wherever an appointed public official is referred to in this code of ordinances, the reference shall include such public official or that person's designee.

(2013 Code, § 1.11) (Ord. 224, passed 8-27-1987; Ord. 337, passed 7-23-1992)

§ 10.24 INCORPORATION BY REFERENCE.

References in this code of ordinances to state statutes are to Minnesota Statutes 1992, Laws of Minnesota 1993, Laws of Minnesota 1994, and Laws of Minnesota 1995, unless otherwise provided. References to rules, regulations, standards, or models are to those documents in effect on January 1, 1996, unless otherwise provided.

(2013 Code, § 1.12) (Ord. 408, passed 3-7-1995; Ord. 445, passed 2-22-1996)

§ 10.25 AUTHORITY TO ISSUE CITATIONS.

Licensed peace officers, community service officers, the Fire Marshal, Fire Chief, animal control official, and Building Official are expressly authorized to issue citations against a person, firm, or corporation who violates any provision of this code of ordinances.

(2013 Code, § 1.13) (Ord. 610, passed 8-30-2001)

§ 10.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statute specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than $300.

(C) Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

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

(E) In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

APPENDIX A
NOTICE OF CODE VIOLATION

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

Re: Alleged violation of section of this code of ordinances, relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § _____of the City Code relating to _____.

The City Council has by resolution established an administrative penalty in the amount of $____for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it, the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by __ _____(establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Before the due date, you may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, the Council, or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Payment of the administrative penalty may be made by check, cash, or money order to the City Treasurer.

Signed: _____

(Name and Title of Person Giving Notice)

TITLE III: ADMINISTRATION

Chapter

CHAPTER 30: GENERAL PROVISIONS

Section

General Provisions

GENERAL PROVISIONS

§ 30.01 AUTHORITY AND PURPOSE.

Pursuant to the authority granted by statute, this title of this code of ordinances is enacted so as to set down for enforcement the government and good order of the city by and through the Council.

(2013 Code, § 2.01) (Ord. 1, passed 4-1-1978)

§ 30.02 EXECUTION OF CONTRACTS AND CITY SEAL.

All contracts to which the city is a party, in addition to being signed by the Mayor and City Administrator, shall be sealed with the city seal. Said seal shall be kept in the custody of the City Clerk and affixed by the City Clerk, or his or her designee. The official city seal shall be a circular disc having engraved thereon "CITY OF SHAKOPEE" and such other words, figures, or emblems as the Council may adopt.

(2013 Code, § 2.06) (Ord. 51, passed 1-1-1981; Ord. 337, passed 7-23-1992; Ord. 853, passed 3-29-2012)

§ 30.03 RIGHT TO ADMINISTRATIVE APPEAL.

If any person shall be aggrieved by any administrative decision of the City Administrator, or any board or commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefor upon the Mayor and City Administrator at least 10 days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing, the appellant may present any evidence the appellant deems pertinent to the appeal, but the city shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on the Mayor's own motion or the motion of the appellant, the City Administrator, or a member of the Council, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.

(2013 Code, § 2.07) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 30.04 RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS.

The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective 30 days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

(2013 Code, § 2.08) (Ord. 1, passed 4-1-1978)

§ 30.05 FACSIMILE SIGNATURE.

The Mayor, City Clerk, and City Treasurer are hereby authorized to request a depository of city funds to honor an order for payment when such instrument bears a facsimile of their signatures, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were their manually written signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

(2013 Code, § 2.10) (Ord. 51, passed 1-1-1981; Ord. 337, passed 7-23-1992)

§ 30.06 CODE OF ETHICS.

(A) *Purpose*. The public judges its government by the way public officials conduct themselves in the posts to which they are elected or appointed. City officials, including City Council members and all members of boards and commissions appointed by the City Council, hold positions of public trust under the scrutiny of public opinion, and their actions must be above suspicion. The public has a right to expect that these city officials will conduct themselves in a manner that will preserve public confidence in and respect for government. In order to continue the public confidence and integrity of city officials and to promote trust of the people in the objectivity of their public servants, this Code of Ethics for city officials of the city is adopted.

(B) *Credo*. The following credo is hereby adopted.

(1) The city believes that government service is a worthy calling. The city is proud of the privilege of serving the public.

(2) The city affirms the dignity and value of the service we render, and strive for a constructive, creative, and practical approach to our work and responsibilities.

(3) The city dedicates itself to the highest ideals of honor and integrity and the principles of equality for all regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

(4) The city believes it is its duty continually to improve its abilities and skills in order to sustain productive and quality performance.

(5) The city emphasizes a friendly and courteous attitude and seeks to present a positive image of public service.

(6) The city respects and treats as privileged, information accepted in trust, to the extent permitted by law, and believes that all matters of personnel should be handled fairly according to established rules. The city believes that personal gain, either immediate or in the future, secured by the misuse of one's position, is totally unethical. Public service is a public trust.

(C) *Disclosure of economic interest.*

(1) In the event any individual City Council member, member of a board or commission, individual city official, or person acting as a representative or appointee of the city shall have a conflict of interest, the individual shall disclose such conflict to the City Attorney prior to any action by the city on the matter(s) which causes the possible conflict.

(2) The City Attorney shall, in turn, advise appropriate city officials of the possible conflict and make a recommendation as to the proper procedures to be followed.

(2013 Code, § 2.39) (Ord. 438, passed 1-18-1996)

§ 30.07 PERSONNEL RULES.

The Council may establish personnel rules setting forth the rights, duties, and responsibilities of employees. Such rules may, from time to time, be amended.

(2013 Code, § 2.40) (Ord. 1, passed 4-1-1978)

§ 30.08 CRIMINAL HISTORY BACKGROUND CHECKS.

(A) *Criminal history background checks authorized.*

(1) The Police Department and/or a Human Resources authorized vendor is authorized to conduct a criminal history background investigation on applicants for paid and volunteer positions with the city, as provided by this section. For paid employment positions, this section applies only to those applicants who are selected for interviews or receive conditional offers of employment.

(2) The Police Department and/or a Human Resources authorized vendor may not perform a background investigation unless the applicant consents in writing to the investigation and to the release of the investigation information to the City Administrator and other city staff as is appropriate.

(3) An applicant's failure to provide consent may disqualify the applicant for the position sought. This section does not apply to background checks related to applicants for peace officer or firefighter positions.

(B) *Required disclosure.* If the city rejects the applicant's application due, solely or in part, to the applicant's prior conviction of a crime, subject to the exception set forth in M.S. § 364.09, as it may be amended from time to time, the City Administrator must notify the applicant in writing of the following:

(1) The grounds and reasons for the rejection;

(2) The applicable complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;

(3) The earliest date the applicant may reapply for employment; and

(4) All competent evidence of rehabilitation will be considered upon reapplication.

(2013 Code, § 2.41) (Ord. 512, passed 5-7-1998; Ord. 871, passed 8-20-2013; Ord. 937, passed 7-5-2016)

§ 30.09 ELECTION YEARS.

(A) *Purpose.* The City Council has determined that it is in the best interests of the city and its residents that the regular municipal election be held in even-numbered years rather than in odd-numbered years. The purpose of this section is to change the timing of the city's municipal elections from odd-numbered years to even-numbered years and to modify the terms of the Mayor and Council members to facilitate an orderly transition in the change to even-numbered year elections.

(B) *Election in even-numbered years.* Pursuant to M.S. § 205.07, as it may be amended from time to time, the city municipal general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year beginning in 2018. No city municipal election shall be held on the first Tuesday after the first Monday in November 2017.

(C) *Transition terms.* The terms of Mayor and Council members whose terms would otherwise expire on the first Monday in January 2018 are extended until the first Monday in January 2019. The terms of the Council members whose terms would otherwise expire on the first Monday in January 2020 are extended until the first Monday in January 2021.

(D) The City Clerk is authorized to take all actions necessary to provide for an orderly transition from the existing election schedule to the schedule set forth in this section.

(Ord. 910, passed 8-18-2015)

ABANDONED PROPERTY

§ 30.20 DISPOSAL OF ABANDONED MOTOR VEHICLES.

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

ABANDONED MOTOR VEHICLES. A motor vehicle as defined in M.S. Ch. 169, as it may be amended from time to time, that has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the city or the Police Department and any motor vehicle coming into possession of the city or its Police Department by seizure, confiscation, or other means and such vehicle has remained unclaimed after notice to the last registered owner thereof hereinbefore provided shall be deemed to have been abandoned. A ***CLASSIC CAR*** or ***PIONEER CAR***, as defined in M.S. Ch. 168, as it may be amended from time to time, shall not be considered an ***ABANDONED MOTOR VEHICLE*** within the meaning of this section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with this code of ordinances, shall not be considered ***ABANDONED MOTOR VEHICLES*** within the meaning of this section.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

(B) *Custody*. The city shall take into custody and impound any abandoned motor vehicle.

(C) *Immediate sale*. When an abandoned motor vehicle is more than 7 model years of age, is lacking vital component parts, and does not display a license plate currently valid in the state or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this division (C).

(D) *Notice*.

(1) When an abandoned motor vehicle does not fall within the provisions of division (C) above, the city shall give notice of the taking within 10 days. The notice shall set forth the date and place of the taking; the year, make, model, and serial number of the abandoned motor vehicle, if such information can be reasonably obtained; and the place where the vehicle is being held; shall inform the owner and any lienholders of their right to reclaim the vehicle under division (F) below; and shall state that failure of the owner or lienholder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title, and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to division (F) below.

(2) The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

(E) *Right to reclaim.*

(1) The owner or any lienholder holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the city upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by this division (E).

(2) Nothing in this division (E) shall be construed to impair any lien of a garage keeper under the laws of this state, or the right of the lienholder to foreclose. For the purposes of this division (E), ***GARAGE KEEPER*** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

(F) *Public sale*.

(1) An abandoned motor vehicle and contents taken into custody and not reclaimed under division (E) above shall be sold to the highest bidder at public auction or sale, following 1 published notice published at least 7 days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(2) From the proceeds of the sale of an abandoned motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice, and publication costs incurred pursuant to this division (F). Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the

General Fund of the city.

(G) *Disposal of vehicles not sold*. Where no bid has been received for an abandoned motor vehicle, the city may dispose of it in accordance with division (H) below.

(H) *Contracts and disposal*.

(1) The city may contract with any qualified person for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

(2) Where the city enters into a contract with a person duly licensed by the State Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where the city enters into a contract with a person duly authorized by the State Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal for the purpose of obtaining reimbursement.

(3) If the city utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

(2013 Code, § 2.70) (Ord. 1, passed 4-1-1978; Ord. 65, passed 6-18-1981; Ord. 121, passed 8-4-1983; Ord. 139, passed 12-15-1983; Ord. 337, passed 7-23-1992; Ord. 404, passed 3-2-1995)

§ 30.21 DISPOSAL OF UNCLAIMED PROPERTY.

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

ABANDONED PROPERTY. Tangible or intangible property that has lawfully come into the possession of the city in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the city for at least 60 days and has been declared such by a resolution of the Council.

(B) *Preliminary notice*. If the City Administrator knows the identity and whereabouts of the owner, the City Administrator shall serve written notice upon the owner at least 30 days prior to a declaration of abandonment by the Council. If the city acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Administrator notice shall also be served upon that holder. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of 30 days from the date of such notice.

(C) *Notice and sale*.

(1) (a) Upon adoption of a resolution declaring certain property to be abandoned property, the City Administrator shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property.

(b) The text of such notice shall also state the time, place, and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least 10 days prior to sale.

(2) The sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

(D) *Fund and claims thereon*. All proceeds from such sale shall be paid into the General Fund of the city and expenses thereof paid therefrom. The former owner, if a claim is made within 8 months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro-rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

(E) *Found currency*. Any person finding currency within the city shall deliver it to the Police Department to be held for a period of 60 days in order to determine the rightful owner.

(1) Unless otherwise specified in this section, currency coming into the possession of the city shall be stored and safely maintained by the city for a period of 60 days.

(2) Such currency shall be disposed of by the city in the following manner.

(a) All currency coming into the city as found property shall be turned over by the Police Department to the Finance Department for safekeeping, unless directed otherwise or for evidentiary purposes by the Police Department.

(b) After 60 days, if no claim is made by the owner to the city or if the owner cannot be located, the currency may be returned to the finder if, at the time of delivery to the city, the finder indicated in writing that they wished to assert claim to the currency as the finder. Upon delivery of the currency to the finder as provided in this division (E), the city shall have no further interest or obligation with respect to the currency. No claims shall be made by a city employee finding currency on city property or during the course of his or her duties as a city employee, unless the employee is the rightful owner of the currency.

(c) If, at the end of the 60-day period, no claims have been made by the owner or finder to the currency, the City Administrator or the Administrator's designee may, in their discretion, choose to deposit the currency into the General Fund of the city.

(3) All currency found by city employees on city property or in the course of their duties as city employees shall be deposited by the City Administrator or Administrator's designee into the General Fund if there are no claims to the currency by the owner within the 60-day period.

(4) The City Administrator or Administrator's designee shall be responsible for maintaining a list of found currency that is returned to the finder, including the finder's name, address, date of birth, and phone number.

(5) If at a later date, after the currency has been turned over to the finder and a claim is made by the rightful owner, the city shall provide the name and address of the finder to the rightful owner.

(2013 Code, § 2.70) (Ord. 1, passed 4-1-1978; Ord. 65, passed 6-18-1981; Ord. 121, passed 8-4-1983; Ord. 139, passed 12-15-1983; Ord. 337, passed 7-23-1992; Ord. 404, passed 3-2-1995; Ord. 742, passed 1-26-2006)

§ 30.22 DISPOSAL OF EXCESS PROPERTY.

(A) *Declaration of surplus and authorizing sale of property*. The City Administrator may, from time to time, recommend to the Council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the Council, said property shall be declared surplus and the City Administrator authorized to dispose of said property in the manner stated herein. The City Council may direct that surplus property be donated to a worthy cause if the donation complies with state statutes for an eligible recipient.

(B) *Surplus property worth an estimated value of less than $15,000*. The City Administrator may sell surplus property of the city with an estimated value of less than $15,000.

(C) *Surplus property worth an estimated value of $15,000 or more*.

(1) The City Administrator shall offer for public sale to the highest bidder surplus property with an estimated value of $15,000 or more. Such sale shall be to the person submitting the highest bid.

(2) Notwithstanding any of the above provision, the City Administrator is authorized to negotiate a direct sale of surplus property with another governmental agency.

(D) *Receipts from sales of surplus property*. All receipts from sales of surplus property under this section shall be placed in the appropriate fund.

(2013 Code, § 2.70) (Ord. 1, passed 4-1-1978; Ord. 65, passed 6-18-1981; Ord. 121, passed 8-4-1983; Ord. 139, passed 12-15-1983; Ord. 337, passed 7-23-1992; Ord. 404, passed 3-2-1995; Ord. 844, passed 3-24-2011)

§ 30.23 PERSONS WHO MAY NOT PURCHASE; EXCEPTIONS.

(A) (1) No employee of the city who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the city in a professional capacity, or members of their immediate families, may be a purchaser of property under this section.

(2) Other city employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least 1 week's published or posted notice of sale is given.

(B) It is unlawful for any person to be a purchaser of property under this section if such purchase is prohibited by the terms of this section.

(2013 Code, § 2.70) (Ord. 1, passed 4-1-1978; Ord. 65, passed 6-18-1981; Ord. 121, passed 8-4-1983; Ord. 139, passed 12-15-1983; Ord. 337, passed 7-23-1992; Ord. 404, passed 3-2-1995) Penalty, see § 30.99

§ 30.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 2.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 31: CITY COUNCIL AND MAYOR

Section

§ 31.01 COUNCIL MEETINGS.

Regular meetings of the Council shall be held in the Council Chambers on the first Tuesday of each month at 7:00 p.m. The Council may, by resolution adopted not less than 1 week prior thereto, change its regular time of meeting; provided, however, that if any regular meeting shall fall on a legal holiday, the meeting shall be held on the next business day.

(2013 Code, § 2.02) (Ord. 293, passed 10-19-1990)

§ 31.02 SPECIAL AND EMERGENCY MEETINGS.

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

(B) *Emergency meetings*. In determining what constitutes an emergency, the Council should be guided by considerations of whether the situation calls for immediate action involving the protection of the public peace, health, or safety. Action by the Council finding facts supporting the emergency shall be noted in the minutes of the emergency meeting before remedial action is taken thereon.

(C) *Posted notice*. In addition to any other notice required by this section, the City Clerk shall endeavor to post a notice of all meetings in City Hall where other notices are posted.

(2013 Code, § 2.03) (Ord. 255, passed 10-14-1988)

§ 31.03 COUNCIL PROCEDURE AT REGULAR MEETINGS.

(A) The City Administrator shall prepare the following items:

(1) An agenda for the forthcoming meeting;

(2) A compiled list of all claims; and

(3) A copy of all minutes to be considered.

(B) *Roberts' Rules of Order (Newly Revised)* shall govern all Council meetings as to procedural matters not set forth in the statute or this code of ordinances. The order of business at regular meetings shall be as set forth in the agenda. Matters not on the agenda, or not in the order specified, shall not be considered except:

(1) With the consent of 4/5 of a quorum of the Council members present;

(2) Scheduled public hearings or bid lettings at the time stated in the notice; or

(3) Emergency matters.

(2013 Code, § 2.04) (Ord. 1, passed 4-1-1978)

§ 31.04 SALARIES OF MAYOR AND COUNCIL MEMBERS.

Salaries of the Mayor and Council members and which amounts are deemed reasonable and proper, are hereby fixed, as follows:

(A) The annual salary of the Mayor shall be as set by Council from time to time.

(B) The annual salary of each Council member shall be as set by Council from time to time.

(C) In addition to the above, the Mayor and each Councilperson shall be paid an amount set by Council from time to time for any meeting attended at which the City Council has designated the Mayor or Councilperson as the official representative of the City Council.

(1) In order to be eligible for the payment, the Mayor or Councilperson must attend the entire meeting.

(2) Neither the Mayor nor any Councilperson shall receive more than one payment set by Council from time to time per calendar day.

(2013 Code, § 2.13) (Ord. 274, passed 1-2-1990; Ord. 509, passed 1-1-1998; Ord. 737, passed 1-1-2006; Ord. 872, passed 8-20-2013; Ord. 908, passed 8-18-2015)

§ 31.05 FINANCE DIRECTOR.

The Finance Director shall, in addition to all other duties, have the responsibility for fulfilling the City Clerk's financial responsibility under and pursuant to M.S. § 412.151, as it may be amended from time to time.

(2013 Code, § 2.14) (Ord. 148, passed 6-28-1984; Ord. 337, passed 7-23-1992)

§ 31.06 OFFICE OF MAYOR.

The term of office for the office of Mayor shall be 4 years. This section shall not affect the term of office for any person elected to the office of Mayor before December 31, 2015.

(Ord. 911, passed 8-18-2015)

§ 31.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 2.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 32: CITY ORGANIZATION

Section

GENERAL PROVISIONS

§ 32.01 PRECINCT BOUNDARIES.

(A) *First Precinct.* The First Precinct shall be bounded on the south by Tenth Avenue, on the west and north by the corporate city limits and on the east by Market Street extending from Tenth Avenue to the northern corporate city limits.

(B) *Second Precinct.* The Second Precinct shall be bounded on the south by Vierling Drive; on the east by Marschall Road to the northerly terminus thereof and thence continuing northeast along the bed of the meandering creek to the corporate city limits along the

centerline of the Minnesota River; on the north by the corporate city limit; and on the west by a line running along Market Street to Tenth Avenue, thence west along Tenth Avenue to Spencer Street, thence south to Vierling Drive.

(C) *Third Precinct.* The Third Precinct shall be bounded on the north by County Road 101; on the east by Canterbury Road (County Road 83); on the south by U.S. Highway 169 and Eagle Creek Boulevard (County Road 16); and on the west by Marschall Road (County Road 17).

(D) *Fourth Precinct.* The Fourth Precinct shall be bounded on the north by the northerly corporate city limits; on the east by the easterly corporate city limits, and the south by a line beginning at County Road 101 and the eastern corporate city limit; thence southwesterly along County Road 21 to Eagle Creek Boulevard (County Road 16); thence west along Eagle Creek Boulevard (County Road 16) to 1/4 mile east of Canterbury Road; thence south 1/4 mile; thence west 1/4 mile to Canterbury Road (County Road 83); thence north along Canterbury Road (County Road 83) to County Road 101; thence west along County Road 101 to Marschall Road; thence north along Marschall Road to the northerly terminus thereof; thence continuing northeast along the bed of the meandering creek to the corporate city limits along the centerline of the Minnesota River.

(E) *Fifth Precinct.* The Fifth Precinct shall be bounded on the east by Adams Street; on the north by 10th Avenue; and on the west and south by the corporate city limits.

(F) *Sixth Precinct.* The Sixth Precinct shall be bounded by a line beginning at the intersection of Adams Street and Tenth Avenue West, thence east along 10th Avenue West to Spencer Street (County Road 79), thence south along Spencer Street (County Road 79) to Vierling Drive, thence east along Vierling Drive to Thistle Lane, thence south along Thistle Lane to Mound Street, thence west along Mound Street to Spencer Street (County Road 79), thence south along Spencer Street (County Road 79) to the southern corporate city limit, thence west along the southerly corporate city limit to Marystown Road (County Road 15), thence north along Marystown Road (County Road 15) to 17th Avenue (County Road 16), thence east along 17th Avenue 310 feet, thence north 415 feet, thence west 310 feet to Marystown Road (County Road 15), thence south along Marystown Road (County Road 15) 700', thence west 440', thence south 150', thence east 440' to Marystown Road (County Road 15), thence south along Marystown Road (County Road 15) 66', thence west 200', thence south 210', thence east 200' to Marystown Road (County Road 15), thence south along Marystown Road to 128th Street, thence west along 128th Street 980', thence south 1/8 mile, thence west 1/8 mile, thence south 1/8 mile to County Road 78, thence west along County Road 78 to the western corporate city limit, thence north along the western corporate city limit 1/4 mile, thence east 1/2 mile, thence north to U.S. Highway 169, thence east along U.S. Highway 169 to Marystown Road, thence north along Marystown Road (Adams Street) to Tenth Avenue West.

(G) *Seventh Precinct.* The Seventh Precinct shall be bounded on the south by a line beginning at the intersection of Spencer Street (County Road 79) and 17th Avenue, thence east along 17th Avenue to Valley View Road, thence south and east along Valley View Road to Evergreen Lane, thence north along Evergreen Lane to Olive Road, thence east along Olive Road to Weston Lane, thence north along Weston Lane to 17th Avenue, thence east along 17th Avenue to Marschall Road; on the east by Marschall Road; on the north by a line beginning at the intersection of Marschall Road and Vierling Drive, thence west to Thistle Lane, thence south along Thistle Lane to Mound Street, thence west along Mound Street to Spencer Street (County Road 79); on the west by a line beginning at the intersection of Mound Street and Spencer Street (County Road 79) extending south along Spencer Street (County Road 79) to 17th Avenue.

(H) *Eighth Precinct.* The Eighth Precinct shall be bounded on the east and north by Eagle Creek Boulevard, on west by Marschall Road, and on the south by U.S. Highway 169.

(I) *Ninth Precinct.* The Ninth Precinct shall be bounded on the south by County Road 14, on the east by Marschall Road, on the north by a line beginning at the intersection of Marschall Road and 17th Avenue, thence west along 17th Avenue to Weston Lane, thence south on Weston Lane to Olive Road, thence west on Olive Road to Evergreen Lane, thence south on Evergreen Lane to Valley View Road, thence north and west on Valley View Road to 17th Avenue, thence west on 17th Avenue to Spencer Street (County Road 79); on the west by a line beginning at the intersection of 17th Avenue and Spencer Street (County Road 79) extending south along County Road 79 to Londonderry Cove, thence south along the westerly corporate city limit to County Road 14.

(J) *Tenth Precinct.* The Tenth Precinct shall be bounded on the north by U.S. Highway 169; on the west by Marschall Road (County Road 17); on the south and east by a line beginning at the intersection of Valley View Road and Marschall Road (County Road 17), thence east along Valley View Road to Independence Drive, thence north along Independence Drive to 17th Avenue, thence east along 17th Avenue to Canterbury Road (County Road 83) and thence north along Canterbury Road (County Road 83) to U.S. Highway 169.

(K) *Eleventh Precinct.* The Eleventh Precinct shall be bounded on the north by a line beginning at the intersection of 17th Avenue (County Road 16) and Canterbury Road (County Road 83), thence west along 17th Avenue to Independence Drive, thence south along Independence Drive to Valley View Road, and thence west along Valley View Road to Marschall Road (County Road 17); thence south along Marschall Road (County Road 17) to County Road 42; thence east along County Road 42 to the corporate city

limits; thence north 1/2 mile along the corporate city limit; thence east 1 mile along the southerly corporate city limit; thence (following the legislative district boundary) north 1/4 mile, thence west 1/4 mile; thence north 1/2 mile; thence west 1/4 mile to Canterbury Road (County Road 83) 1/4 mile north of the intersection of Valley View Road and Canterbury Road (County Road 83); thence north along Canterbury Road (County Road 83) to 17th Avenue (County Road 16).

(L) *Twelfth A Precinct.* The Twelfth A Precinct shall be bounded by a line beginning at the intersection of County Road 21 and Eagle Creek Boulevard (County Road 16); thence west along Eagle Creek Boulevard to McKenna Road; thence south along McKenna Road 1000'; thence (following the legislative district boundary) west 1/4 mile; thence south 1/8 mile; thence east 1/4 mile to McKenna Road; thence south along McKenna Road 2000' to Tinta Lane; thence east on Tinta Lane 1/2 mile to County Road 21; thence south along County Road 21 1/4 mile to the southerly corporate city limit; thence continuing along the corporate city limits to the eastern corporate city limit; thence north to County Road 101; thence west along County Road 101 to County Road 21; thence south to Eagle Creek Boulevard (County Road 16).

(M) *Twelfth B Precinct.* The Twelfth B Precinct shall be bounded by a line beginning at the southeasterly corporate city limit at County Road 21; thence northerly along County Road 21 1/2 mile; thence (following the legislative district boundary) west 1/2 mile to the intersection of Tinta Lane and McKenna Road; thence north along McKenna Road 2000'; thence west 1/4 mile; thence north 1/8 mile; thence east 1/4 mile to McKenna Road; thence north along McKenna Road 1000' to Eagle Creek Boulevard (County Road 16); thence west along Eagle Creek Boulevard (County Road 16) to 1/4 mile east of Canterbury Road (County Road 83); thence south 1/4 mile; thence west 1/4 mile to Canterbury Road (County Road 83); thence south along Canterbury Road (County Road 83) 1/2 mile; thence east 1/4 mile; thence south 1/2 mile; thence east 3/4 mile to McKenna Road; thence south along McKenna Road 1/2 mile to the southerly corporate city limit.

(N) *Thirteenth Precinct.* The Thirteenth Precinct shall be bounded by a line beginning at the intersection of County Road 14 and County Road 79, thence easterly along County Road 14 to Marschall Road (County Road 17), thence north along Marschall Road (County Road 17) to County Road 42, thence east along County Road 42 to the eastern corporate city limit, thence south to the southern corporate city limit (County Road 72); thence westerly along the southern corporate city limit to County Road 79, thence northerly on County Road 79 to County Road 14.

(O) *Generally*. Unless otherwise specified in this section, all precinct boundaries that reference avenues, drives, roads, streets, and highways means the centerline of such avenues, drives, roads, streets, and highways.

(2013 Code, § 2.22) (Ord. 852, passed 3-29-2012)

§ 32.02 BOARDS AND COMMISSIONS GENERALLY; EXCEPTIONS.

(A) *Appointments.*

(1) All board and commission appointments authorized by this code of ordinances or resolution shall be filled by appointment by the Council at the first regular meeting in February of each year. The term of each appointee shall be established and stated at the time of appointment, and terms of present board and commission members may be re-established and changed so as to give effect to this section.

(2) New appointees shall assume office on March 1, the last day in February being the date of expiration of terms; provided, however, that all appointees to boards and commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term.

(B) *Qualifications.*

(1) All members shall be residents of the city, except such as the Council deems more representative. No appointed board or commission member shall be an employee of the city, but an ex officio member may be so employed. The City Administrator shall be an ex officio member of all boards and commissions; provided, that if the City Administrator is unable to attend a meeting or act in the capacity of such membership, the City Administrator may be represented by the City Administrator's Assistant or some person duly authorized by the City Administrator. Council members may be members of a board or commission, appointed for a term established by the Council at the time of the appointment, but not to extend beyond the end of the then current term being served by such member of the Council.

(2) Any board or commission member may be removed by the Council for misfeasance, malfeasance, or nonfeasance in office and the position filled as any other vacancy.

(C) *Compensation*. All appointed board and commission members, with the exception of Planning Commission members, shall serve without remuneration, but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the Council before they were incurred.

(D) *Procedures*. The Chair and Secretary shall be chosen from and by the board or commission membership annually to serve for 1 year; provided, that no Chair shall be elected who has not completed at least 1 year as a member of the board or commission. Each board and commission shall hold its regular meetings at a time established and approved by the Council.

(E) *Application*. Except as otherwise provided in this chapter, this section shall apply to all boards and commissions, except the City Public Utilities Commission.

(F) *Robert's Rules of Order*. All boards and commissions, except the City Public Utilities Commission, shall adopt *Robert's Rules of Order*, as revised, and shall adopt such other and further rules for their own proceedings as they shall, from time to time, deem expedient.

(2013 Code, § 2.50) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 340, passed 10-8-1992; Ord. 372, passed 2-15-1994; Ord. 406, passed 3-2-1995)

§ 32.03 DEPARTMENTS GENERALLY.

(A) *Control*. All departments of the city are under the overall control of the City Administrator. Heads of all departments are responsible to the City Administrator and subject to the City Administrator's supervision and direction, except as otherwise provided by law.

(B) *Appointment*. All department heads and employees shall be appointed by the Council, after screening and recommendation by the City Administrator. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations, except as otherwise provided by law.

(C) *Compensation*. All wage and salary scales shall be fixed and determined by the Council, except as otherwise provided by law.

(2013 Code, § 2.30) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

EMPLOYEES, BOARDS, AND DEPARTMENTS

§ 32.15 CITY ADMINISTRATOR.

(A) *Position established*. The position of City Administrator is hereby established.

(B) *Position re-defined*. The existing position of City Administrator is hereby affirmed. The City Administrator shall perform the duties hereinafter prescribed, which shall not include the duties prescribed by law for city clerks.

(C) *Qualifications*. The City Administrator shall be selected solely on the basis of executive and administrative qualifications with special reference both to experience, formal education, as well as knowledge of accepted practices pertaining to the duties of the office.

(D) *Duties*. The City Administrator shall be the Chief Administrative Officer of the city and shall be responsible to the Council for the proper administration of all affairs of the city and to that end shall be empowered and required to:

(1) Supervise the administration of all departments, offices, and divisions of the city except as otherwise provided by law and carry out any other responsibilities placed under the City Administrator's jurisdiction by this section or by subsequent Council action;

(2) Advertise for, interview, and screen all prospective city employees as permitted by law and shall make recommendations to the Council before the Council makes any appointment that the City Administrator is not authorized to make; suspend employees as necessary; make recommendations for terminating employees and may suspend any employee until the next Council meeting when the Council shall affirm, modify, or reject the recommendation for termination;

(3) Develop and issue all administrative rules, regulations, and procedures necessary to ensure the proper functioning of all departments and offices under the City Administrator's jurisdiction as permitted by law and Council approval;

(4) Prepare and submit an annual budget to the Council and keep the Council advised of the financial condition of the city and make such recommendations as the City Administrator may from time to time determine desirable and necessary;

(5) Attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. The City Administrator shall also represent the city at all official or semi-official functions as may be directed by the Council and not in conflict with the prerogatives of the Mayor. The City Administrator shall be entitled to notice of all regular and special meetings of the Council;

(6) See that all laws and provisions of this code of ordinances are duly enforced;

(7) Purchase or enter into contracts for previously budgeted items when the amount thereof does not exceed $15,000, and purchase or enter into contracts for previously budgeted services, when the annual amount of such contract does not exceed $15,000. For items and services in excess of $15,000, the City Administrator shall receive estimates, quotations, proposals, or sealed bids, as appropriate, and present them to the Council for official action;

(8) Recommend from time to time the adoption of such measures as the City Administrator may deem necessary or expedient for the health, safety, and welfare of the community or for the improvement of the administration;

(9) Perform such other duties as may be required by the Council and consistent with state statutes and this code of ordinances; and

(10) Accept resignations of employment from all employees, except department heads, Police Captains, and Police Sergeants; and

(11) Hire, promote, and appoint employees for positions previously budgeted for and authorized by the City Council, with the exception of department heads, Police Captains, and Police Sergeants and those employees recommended for hire at or above the mid-point of the established pay range.

(E) *Suspensions, terminations, and appeals*. Notice of termination or suspension must be in writing and shall specify the grounds thereof and must be served forthwith upon the suspended employee and filed with the Council. Any department head or employee so suspended or terminated may request a hearing before the Council by serving 10 days' written demand on the Council for such hearing and also by serving such notice on the City Administrator. The Council shall hear such appeal within 14 days after the service of the notice and shall render its decision within 7 days after the hearing is closed.

(F) *Compensation*. The City Administrator shall receive such compensation as shall be fixed by the Council.

(2013 Code, § 2.05) (Ord. 1, passed 4-1-1978; Ord. 18, passed 3-15-1979; Ord. 51, passed 1-1-1981; Ord. 294, passed 10-19-1990; Ord. 337, passed 7-23-1992; Ord. 355, passed 3-25-1993; Ord. 394, passed 12-20-1994; Ord. 456, passed 8-29-1996; Ord. 701, passed 4-15-2004; Ord. 801, passed 7-10-2008; Ord. 880, passed 1-7-2014; Ord. 887, passed 5-20-2014)

§ 32.16 POLICE DEPARTMENT.

A Police Department, heretofore established, is hereby continued. The head of this Department shall be known as the Chief of Police. The number of employees of the Police Department shall be determined by the Council. The Chief of Police shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when in the Chief's judgment, an emergency exists for the preservation of life or property. The Chief of Police shall supervise the operation of the Police Department and shall make and file such reports as may be required by the City Administrator. Employment of all permanent full-time police officers, including the Chief of Police, shall be in accordance with state statutes and in accordance with the rules and regulations established by the Police Civil Service Commission.

(2013 Code, § 2.31) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 32.17 FIRE DEPARTMENT.

(A) A Fire Department, heretofore established, is hereby continued. The size and composition (including, but not limited to, a determination as to permanent and volunteer members) shall be established by the Council by resolution which may be changed from time to time. The Fire Department, with the approval of the Council, shall establish, and from time to time revise, written rules and regulations of the Department including, but not limited to, its internal structural organization, a copy of which shall be distributed to each of its members whenever established or revised.

(B) The Chief of the Fire Department shall have general supervision of the Department, including training of every member, and the custody of all property used and maintained for the purpose of said Department. The Chief shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the state and this code of ordinances relative to a Fire Department and to the prevention and extinguishment of fires are duly observed, The Chief shall supervise the preservation of all property endangered by fire and shall control and direct all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all powers, perform all the duties, and be subject to all the responsibilities of the Chief.

(C) It is the duty of the Chief of the Fire Department to file with the City Administrator a report as to all fires occurring during the previous year, stating the probable cause thereof and estimated damages; such reports shall also state the other activities of the Department during the preceding year. The Chief of the Fire Department shall also make and file such other reports as may be required by the City Administrator.

(2013 Code, § 2.32) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 32.18 PUBLIC WORKS DEPARTMENT.

(A) A Department of Public Works is hereby established. The head of this Department shall be known as the Director of Public Works. The Director shall be a registered professional engineer and shall function as City Engineer when legally requested to do so. The Director shall have the duty of supervision of all public works operations and engineering operations. The Director shall have under his or her direct supervision any assistants as may be necessary as well as all skilled and unskilled labor required therefor.

(B) The Director shall also be responsible for maintenance of all city parks and grounds and have under his or her supervision all labor required for maintenance thereof. The Director shall work in cooperation with the Park and Recreation Director. The Director shall make and file such reports as may be required by the City Administrator; and shall perform such duties as are required of the him or her, or referred to the Director by the Council.

(2013 Code, § 2.36) (Ord. 284, passed 1-1-1990; Ord. 337, passed 7-23-1992)

§ 32.19 ADDITIONAL DEPARTMENTS.

The following departments, and any other departments as may be determined by the Council, are hereby authorized and shall have the duties specified by the Council: Department of Planning and Finance Redevelopment and Administration Department.

(2013 Code, § 2.37) (Ord. 1, passed 4-1-1978)

§ 32.20 PLANNING COMMISSION.

A Planning Commission composed of 7 members is hereby established. The Planning Commission members shall serve staggered 4-year terms. The Planning Commission shall have such authority and perform such duties as prescribed by state statutes and this code of ordinances. Each member of the Planning Commission shall receive such compensation per Planning Commission meeting or hearing, as shall be fixed by the Council.

(2013 Code, § 2.52) (Ord. 1, passed 4-1-1978; Ord. 406, passed 3-2-1995)

§ 32.21 BOARD OF ADJUSTMENT AND APPEALS.

The Board of Adjustment and Appeals shall be the Planning Commission.

(2013 Code, § 2.53) (Ord. 31, passed 10-25-1979)

§ 32.22 PUBLIC UTILITIES COMMISSION.

(A) *Generally*. The City Public Utilities Commission, heretofore established, continues. The Commission shall have the full,

absolute, and exclusive control of, and power over, all city water plants and systems, and all light and power plants and systems. The Commission shall also have control of, and power over, such public buildings that by agreement between the Council and the Commission, are placed under the jurisdiction of the Commission. This control and power shall extend to all parts, buildings, attachments, and appurtenances thereto; and to all apparatus, machinery, and material of every kind used in operating these plants and systems. The Commission is empowered to operate and control any other utilities subsequently acquired.

(B) *Membership*. In accordance with 2002 Minnesota Session Laws, Ch. 226, as it may be amended from time to time, the Commission shall consist of 5 members appointed by the Council, and their compensation shall be set by the Council. No more than 1 member shall be a member of the Council. Each member shall serve for a term of 3 years. Commission members must reside within the corporate limits of the city at the time of their appointment to the Commission, and if they move outside of the corporate limits during their term of office, they shall tender their resignation to the Council who may accept or reject it. If the Council rejects the resignation, said Commissioner may complete the Commissioner's term of office.

(C) *Procedures*. The Commission shall adopt rules for its own proceedings which shall provide for, among other things, at least 1 regular meeting by the Commission each month. It shall annually choose a President from among its own members. It shall appoint a Secretary who need not be a member of the Commission, for an indefinite term. The Secretary shall receive a salary fixed by the Commission.

(D) *Powers*. The Commission shall have power to extend and to modify or rebuild any public utility and to do anything it deems necessary to its proper and efficient operation; and it may enter into necessary contracts for these purposes.

(E) *Employees*. The Commission shall have power to employ all necessary help for the management and operation of the public utility, prescribe duties of officers and employees and fix their compensation.

(F) *Purchases*. The Commission shall have power to buy all fuel and supplies, and it may purchase wholesale electric energy, steam heat, gas, or water, as the case may be, for municipal distribution,

(G) *Rates, rules, and regulations*. The Commission shall have power, after informing the Council, to fix rates and to adopt reasonable rules and regulations for utility service supplied by the municipally- owned public utilities within its jurisdiction. A joint meeting shall be held between the Commission and Council when requested by either body.

(H) *Agreement with city*. The Commission shall have power to enter into agreements with the Council for payments by the city of utility service; compensation for the use by either the Commission or the city of buildings, equipment, and personnel under the control of the other; payments to the city in lieu of taxes; transfers of surplus utility funds to the General Fund; and also agreements on other subjects of relationships between the Commission and the Council. The Commission shall also have any and all power and authority provided by law. All existing agreements between the Commission and Council are preserved.

(I) *Disposition*. No utility, or portion thereof, shall be transferred from under the jurisdiction of the Commission and no utility, or portion thereof, shall be sold, rented, leased, or otherwise disposed of except as by law.

(2013 Code, § 2.54) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 628, passed 4-25-2002)

§ 32.23 PARKS AND RECREATION ADVISORY BOARD.

(A) *Establishment*. A City Park and Recreation Advisory Board is hereby established. The Park and Recreation Advisory Board shall have advisory powers and shall be subordinate to the Council. The duties of this Board shall consist of making recommendations to the Council on establishing policies and programs relating to park, recreation, and leisure services.

(B) *Duties*. This includes, but is not limited to, the following duties.

(1) The Board shall make recommendations to the Council regarding park development including the maintenance and upgrade of facilities and equipment, the naming of parks, and the location of new parks and what facilities they shall include.

(2) The Board shall make recommendations to the Council concerning park land acquisition procedures and park dedication requirements.

(3) The Board shall be responsible for submitting an annual and 5-year capital improvement program, outlining recommended improvements to existing and proposed park lands prior to July 1 of each year.

(4) The Board shall make recommendations and submit to the Council an annual operating budget and schedule for recreational program fees.

(5) The Board shall review and evaluate park and recreation programs and how these programs can and do fulfill the existing and future needs of the city, while preserving the city's heritage and traditions. The Board shall be knowledgeable of the City Council's vision and shall evaluate the programs based on how they meet the goals and action plans established by Council.

(6) The Board shall endeavor to foster mutually beneficial relationships between the City School District, City Area Catholic Education Center, affiliated recreation organizations, and surrounding governmental agencies.

(C) *Composition of Commission.*

(1) The Park and Recreation Advisory Board shall consist of 7 members appointed by the Council having staggered terms of 3 years each. Appointment shall be made by resolution naming the Board members and setting the term of office. Vacancies occurring thereafter shall be filled for the unexpired term of the vacant office and shall be by resolution adopted by a majority vote of the Council.

(2) The composition of the Board may include citizens from the community representing the following interests in the community:

(a) School;

(b) Community organization(s);

(c) General public;

(d) Senior citizens; and

(e) Neighboring townships.

(2013 Code, § 2.57) (Ord. 290, passed 6-5-1990; Ord. 305, passed 2-6-1991; Ord. 311, passed 6-14-1991; Ord. 323, passed 12-12-1991; Ord. 340, passed 10-8-1992; Ord. 774, passed 12-28-2006)

§ 32.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 2.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 33: EMERGENCY MANAGEMENT

Section

§ 33.01 POLICY AND PURPOSE.

(A) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or other natural or human-made causes, and in order to ensure that preparations of this city will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(1) To establish a city emergency management organization;

(2) To provide for the exercise of necessary powers during emergencies at the time of a natural or human-made disaster;

(3) To provide for the formulation of necessary plans and training to meet the requirements of the city missions; and

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

(B) It is further declared to be the purpose of this chapter and the policy of the city, that all emergency management functions of this city be coordinated to the maximum extent practicable with the comparable functions of the federal government, of this state, county, and of private agencies of every type, to the end that the most effective preparations and use may be made of the nation's labor force, resources, and facilities for dealing with any disaster that may occur.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.02 DEFINITIONS.

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

EMERGENCY. An emergency declared by the Governor under the provisions of M.S. § 12.31, as it may be amended from time to time, or an emergency declared by the Mayor and/or Council under § 33.06.

EMERGENCY MANAGEMENT. The preparation for and carrying out of all emergency functions, other than functions for which military forces are primarily responsible; to prevent, minimize, and repair injury and damage resulting from disaster, natural or human-made, acute shortages of energy, or from incidents occurring that pose radiological, bio-terrorism, or other health hazards. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency human services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to preparation for a carrying out of the foregoing functions.

EMERGENCY RESPONSE PERSONNEL. Any personnel employed by the city and any other volunteer or paid member of the city emergency management organization engaged in carrying on emergency management functions in accordance with the provisions of this chapter or any rule or other thereunder.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT AGENCY.

(A) Pursuant to the authority in M.S. § 12.25, as it may be amended from time to time, there is hereby created within the city government an Emergency Management Agency, which shall be under the supervision and control of an Emergency Management Director, hereinafter called the Director. The Director shall be appointed by the Council for an indefinite term and may be removed at any time. The Director may be compensated at a rate to be determined by the Council and shall be paid necessary expenses.

(B) The Director shall have direct responsibility for the organization, administration, and operation of the emergency management organization, subject to the direction and control of the Council. Emergency management shall be organized into such divisions and bureaus, consistent with state, county, and local emergency operation plans, as the Director deems necessary to provide for the efficient performance of local emergency management functions during an emergency. The Emergency Management Agency shall perform emergency management functions outside the city as may be required pursuant to the provisions of the state statutes, Ch. 150, the county common organization contract, or this chapter.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.04 POWERS AND DUTIES OF THE DIRECTOR.

(A) The Director, with the consent of the Council or City Administrator, shall represent the city on any county, regional, or state organization for emergency management.

(B) The Director shall make such studies and surveys of the labor force, industries resources, and facilities of the city as the Director deems necessary to determine their adequacy for emergency management, and to plan for their most efficient use in time of an emergency.

(C) The Director shall prepare a comprehensive general plan for the emergency management of the city which will include a community shelter plan utilizing the established shelters and shall present such plan to the Council for its approval. When the Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all emergency response personnel of the city, to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency operation plans of the county.

(D) In accordance with the state, county, and city emergency operations plan, the Director shall institute such training programs and public information programs and shall take all other preparatory steps, including the partial or full mobilization of emergency response personnel in advance of actual disaster, as may be necessary to the prompt and effective operation of the city emergency operation plan in time of an emergency. The Director may, from time to time, conduct such practice alerts or other emergency management exercises as the Director may deem necessary.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the local Emergency Management Agency and to the Governor or the county authorities upon request. The head of each department and agency, in cooperation with and under the direction of the Director, shall be responsible for the planning and programming of such emergency management activities as will involve the utilization of the facilities of this department or agency.

(F) The Director shall, in cooperation with existing city departments and agencies affected, organize, recruit, and train shelter managers, radiological monitors, police reserves, rescue personnel, firefighters, emergency medical personnel, and any other personnel that may be required on a volunteer basis to carry out the emergency operation plans of the city, the county, or the state. To the extent that such emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to such department or agency for purposes of administration and command. The Director may dismiss any volunteer at any time and require the surrender of any equipment and identification furnished by the city.

(G) Consistent with the emergency operations plan, the Director shall provide and equip emergency hospitals, casualty stations, ambulances, canteens, evacuation centers, and other facilities, or conveyances for the care of the injured or homeless persons.

(H) The Director shall carry out all emergency orders, rules, and regulations issued by the Mayor, Governor, and county through the common organization contract, pertaining to emergency management.

(I) The Emergency Management Director shall direct and coordinate the general operations of all local emergency response personnel during an emergency in conformity with controlling regulations and instructions of state and county emergency management authorities. The heads of departments and agencies shall be governed by the Director's orders in respect thereto.

(J) Consistent with the emergency operations plan, the Director or city EOC shall use the County Emergency Operating Center and, if required by the local emergency operations plan, auxiliary centers to be used during an emergency as headquarters for direction and control of emergency response personnel. The Director shall arrange for representation at the center by municipal departments and agencies, public utilities and other agencies authorized by federal or state authority to carry on emergency.

(K) During the first 30 days of an emergency, if the Legislature is in session or the Governor, has coupled the declaration of the emergency with a call for a special session of the Legislature, the Director may, when necessary to save life or property, require any person, except members of the federal or state military forces and officers of the state or any other political subdivision, to perform services for emergency management purposes as the Director deems necessary; and the Director may commandeer, for the time being, any motor vehicle, tools, appliances, or any other property, subject to the owner's right to just compensation as provided by law.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.05 GENERAL PROVISIONS AND EMERGENCY MANAGEMENT WORKERS.

(A) Emergency management volunteers shall be called into service only in case of an emergency or a natural disaster for which the regular municipal forces are inadequate or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation.

(B) Each emergency management volunteer shall be provided with such suitable insignia or other identification as may be required by the Director. Such identification shall be in a form and style approved by the federal government. No volunteer shall exercise any authority over any person except an authorized volunteer shall use the identification of a volunteer or otherwise represent themselves to be an authorized volunteer.

(C) No emergency management volunteer shall carry any firearm while on duty except on written order of the Chief of the Police Department.

(D) Personnel procedures of the city applicable to regular employees shall not apply to volunteer emergency management workers, but shall apply to paid employees of the Emergency Management Agency.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.06 EMERGENCY REGULATIONS AND SUCCESSION.

(A) When used in this chapter, the term ***EMERGENCY*** includes, in addition to the meaning given in state law, disasters caused by fire, flood, windstorm, or other natural and human-made causes.

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

(C) Every proclamation of emergency regulations shall be in writing and signed by the Mayor, shall be dated, shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Administrator, where a copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the Administrator's office shall be conspicuously posted at the front of City Hall or other headquarters of the city and at such other places in the affected area as the Mayor shall designate in the proclamation. Thereupon the regulation shall take effect immediately or at such later time as may be specified in the proclamation. By like proclamation, the Mayor may modify or rescind any such regulation.

(D) The Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever occurs first. Any ordinance, rule, or regulation inconsistent with an emergency regulation promulgated by the Mayor shall be suspended during the period of time and to the extent that such conflict exists. During the emergency, the city is, notwithstanding any statutory or charter provision to the contrary, empowered, through its governing body acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. The city may exercise such powers in the light of exigencies of the disaster without compliance with time consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, limitations upon tax levies; and the appropriation and expenditure of public funds including, but not limited to, publication of ordinances and resolutions, publication of calls for bids, provisions of civil service laws and rules, provisions relating to low bids, and

requirements for budgets.

(E) During an emergency, the Mayor is authorized to contract on behalf of the city for services for the purchase of merchandise or materials where the amount of the contract or purchase does not exceed $25,000. The Mayor may take such action without prior approval of the Council and without compliance with regular purchasing and bidding procedures, but all claims resulting therefrom shall be audited and approved by the Council as in the case of other purchases and contracts.

(F) (1) In the event of a nuclear attack upon the United States or a natural disaster or any other emergency affecting the vicinity of the city, the Mayor, the Council, and the City Administrator shall be forthwith notified by any 1 of the said persons and by any means available to gather at the emergency operations center.

(2) Those gathered shall proceed as follows:

(a) By majority vote of those present, regardless of number, they shall elect a Chair and Secretary to preside and keep the minutes respectively;

(b) They shall review and record the specific facts relating to nuclear attack or natural disaster or other emergency and injuries to persons or damage to property already done or the imminence thereof;

(c) By a majority vote of those present, regardless of number, they shall fill all positions on the Council, including the office of Mayor, of those persons upon whom notice could not be served or who are unable to be present; and

(d) Such interim succession shall serve until such time as the duly elected official is again available and returns to the position or the state of emergency is past and a successor is designated and qualified as required by law, whichever shall occur first.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.07 EMERGENCY MANAGEMENT AGENCY PROCEDURE.

(A) There is hereby established in the City Treasury an Emergency Management Account. Into this Account shall be placed the proceeds of taxes levied for emergency management, money transferred from other funds, gifts, and other revenues of the Emergency Management Agency. From it shall be made expenditures for the operation and maintenance of the Emergency Management Agency and other expenditures for emergency management.

(B) Regular accounting, disbursement, purchasing, budgeting, and other financial procedures of the city shall apply to the Emergency Management Fund insofar as practicable; but, budgeting requirements and other financial procedures shall not apply to expenditures from the Fund in any case when their application will prevent compliance with terms and conditions of a federal or state grant of money or property for emergency management purposes.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.08 FALLOUT SHELTER IN PUBLIC STRUCTURES.

(A) It is the policy of the city that fallout shelters be incorporated in all publicly-owned buildings to the fullest extent practicable in order to provide protection against radiation in the event of nuclear attack.

(B) The Council shall require that all contracts for the design or construction of such publicly-owned buildings, including additions to or alterations of existing structures, incorporate fallout protection for at least the normal anticipated daily population of the building. The fallout shelter protection provided for shall meet or exceed the minimum space and fallout protective criteria recommended by the Federal Emergency Management Agency, unless exempted from such shelter requirement as provided in division (C) below.

(C) The Council may exempt buildings or structures from the requirements of this section where it finds that such incorporation of fallout shelter will create an additional cost in the construction of such structure in excess of 1% of the estimated cost thereof without shelter so incorporated, or if it finds that other factors make unnecessary or impracticable the incorporation of fallout shelters in such structures,

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.09 CONFORMITY AND COOPERATION WITH FEDERAL, STATE, AND COUNTY AUTHORITY.

(A) Every officer and agency of the city shall cooperate with federal, state, and county authorities and with authorized agencies engaged in emergency management and emergency measures to the fullest possible extent consistent with the performance of their duties.

(B) The provisions of this chapter and of all regulations made thereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative so far as there is any conflict therewith.

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.10 EMERGENCY MANAGEMENT AS A GOVERNMENTAL FUNCTION.

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

(2013 Code, § 2.11) (Ord. 769, passed 10-26-2006)

§ 33.11 PARTICIPATION IN LABOR DISPUTE OR POLITICS.

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

(2013 Code, § 2.11) (Ord. 53, passed 2-26-1981; Ord. 337, passed 7-23-1992; Ord. 408, passed 3-7-1995; Ord. 769, passed 10-26-2006)

§ 33.12 USE OF CITY EQUIPMENT; PERSONNEL; EXPENDITURE OF CITY FUNDS.

In the event of a disaster and when it is impossible or impractical to first seek city Council approval, the Mayor or the Mayor's designee is authorized to exercise discretion and to use city equipment, supplies, and personnel and to expend city funds as necessary to preserve and maintain the operation of city government and the safety and security of the public.

(2013 Code, § 2.11) (Ord. 564, passed 12-30-1999)

§ 33.13 EMERGENCY MANAGEMENT DIRECTOR.

The Council may appoint an Emergency Management Director either for the city or in conjunction with another unit of government, and provide for compensation.

(2013 Code, § 2.12) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 769, passed 10-26-2006)

CHAPTER 34: FINANCE AND REVENUE

Section

34.99 Penalty

§ 34.01 COMMERCIAL BUILDING REHABILITATION LOAN PROGRAM.

(A) *Authority*. Pursuant to M.S. § 469.184, as it may be amended from time to time, the city has been authorized to establish a Commercial Building Loan Program to rehabilitate and preserve small and medium sized commercial buildings located within its boundaries, and to provide for the administration thereof. Pursuant to this statute, the Economic Development Authority for the city has been authorized to develop and administer an Interest Reduction Program to pay in periodic payments or in a lump sum payment, any or all of the interest on loans made pursuant to this statute for the rehabilitation or preservation of small and medium sized commercial buildings.

(B) *Findings*. The Council finds that many commercial buildings in the city are physically deteriorating, underused, economically inefficient, or functionally obsolete, and in need of rehabilitation to meet applicable building codes; that there is a need for a comprehensive program for the rehabilitation of such buildings to prevent economic and physical blight and deterioration, to increase the municipal tax base, and to assist in the implementation of the comprehensive plan for the city; that some owners of small and medium sized commercial buildings are unable to afford rehabilitation loans on terms available in the private mortgage market or to obtain rehabilitation loans on any terms because the private mortgage market is severely restricted; and that the health, safety, and general welfare and the preservation of the quality of life of the residents of the city are dependent on the preservation and rehabilitation of small and medium sized commercial buildings in the city.

(C) *Economic Development Authority to act on behalf of city*. The Council hereby authorizes the Economic Development Authority for the city to exercise any and all of the powers conferred on the city and a housing and redevelopment authority by M.S. § 469.184, as it may be amended from time to time, to operate and administer a municipal Commercial Rehabilitation Loan Program within the city.

(D) *Administration*. The Economic Development Authority for the city is hereby granted the power and authority to adopt from time to time various program regulations and guidelines for the Commercial Building Rehabilitation Loan Program authorized by this chapter, which regulations shall include a definition of "small and medium sized commercial buildings", loan eligibility and loan priority criteria, loan amount limitations and any other provisions and regulations which may from time to time be necessary or desirable.

(E) *Commercial Building Rehabilitation Loan Program.* There is hereby established and provided a Program for the making of loans for the rehabilitation and preservation of small and medium sized commercial buildings located within the city, which Program shall be administered by the Economic Development Authority for the city in accordance with the following regulations, conditions, and provisions, and such other regulations and guidelines as shall be formulated and adopted by the Economic Development Authority for the city.

(1) Loans may be provided and made for the rehabilitation and preservation of small and medium sized commercial buildings, and all such loans shall be secured either by mortgages on the property with respect to which the loans are made or by other security acceptable to the Council. Except as hereinafter provided, such loans may be made on such terms and conditions as may be authorized pursuant to the regulations and guidelines which shall be adopted by the Economic Development Authority.

(2) Loans made under the Program shall be eligible for interest rate reduction payments in the amounts, and upon the terms and conditions as may be authorized by the Program regulations and guidelines.

(3) In approving applications for loans pursuant to this chapter and the Program, at least the following factors and conditions shall be considered:

(a) The availability and affordability of private mortgage credit;

(b) The availability and affordability of other governmental programs;

(c) Whether the building is required, pursuant to any court order, statute, or provision of this code of ordinances to be repaired, improved, or rehabilitated; and

(d) Whether the proposed improvements will result in conformance with building and zoning codes and improvement of the aesthetic quality of existing commercial areas.

(F) *Limitations*. The Loan Program shall be operated within the following limitations.

(1) Only buildings located within the Downtown Development District shall be eligible for loans under this Program.

(2) The terms and conditions of all loans made under the Program shall be fixed so that the sum of all repayments of principal and interest on them, not then delinquent, and all fees and charges collected, together with other sums to be contributed by the city, shall, over the duration of the Program, be estimated to be equal to or greater than the sum of all estimated costs of the Program, as determined by the Program Administrator and approved by the Council, including administrative costs, mortgage foreclosure costs, and principal and interest payments on bonds issued to finance the Program to the extent not paid from bond proceeds.

(3) No loan shall be made for a period exceeding 20 years.

(4) No loan shall exceed 80% of the estimated market value of the property to be rehabilitated upon completion of the rehabilitation, less the principal balance of any prior mortgage existing on the property at the time the loan is made.

(5) No loan shall be made in excess of $200,000 for the rehabilitation of any particular small or medium sized commercial building.

(6) No grants of any money shall be allowed or made as a part of the Loan Program authorized by this section.

(2013 Code, § 2.71) (Ord. 102, passed 9-16-1982; Ord. 408, passed 3-7-1995; Ord. 410, passed 4-13-1995)

§ 34.02 FRANCHISES.

(A) *Definition*. ***FRANCHISE*** as used in this section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the city, whether such privilege has heretofore been granted by it or by the state, or shall hereafter be granted by the city or by the state.

(B) *Franchise ordinances*. The Council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

(C) *Power of regulation reserved*. The city shall have the right and power to regulate and control the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the state.

(D) *Conditions in every franchise*. All conditions specified in this section shall be a part of every franchise even though they may not be expressly contained in the franchise.

(1) The grantee shall be subject to and will perform on its part all the terms of this section and will comply with all pertinent provisions of any City Charter and city code, as the same may from time to time be amended.

(2) The grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair, and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by an agency of the state, in the manner following:

(a) A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation, a fair return upon all money invested;

(b) If possible maximum rates and charges shall be arrived at by direct negotiation with the Council; and

(c) If direct negotiations fail to produce agreement, the Council shall, not less than 30 days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative, the franchisee shall likewise appoint an expert as its representative and the 2 of them shall appoint a third person, preferably an expert, and the 3 of them shall constitute a Board of Arbitration. The Board shall report its findings as soon as possible and the rates, and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.

(3) The Council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the

public.

(4) The grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive upon condemnation proceedings brought by the city to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

(5) No sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the city an instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.

(6) Every grant contained in said franchise of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all facilities for whatsoever purpose used.

(7) Every franchise shall contain a provision granting the city the right to acquire the same in accordance with statute.

(8) The franchisee may be obligated by the city to pay the city fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the city.

(E) *Further provisions of franchises*. The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the city to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the Council may deem proper to protect the city's interests, nor shall anything contained in this section limit any right of power possessed by the city over existing franchises.

(F) *Term of franchise*. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding 20 years shall be effective until approved by a majority of the electors voting thereon.

(G) *Exception*. Nothing in this section shall pertain to the City Public Utilities Commission.

(2013 Code, § 2.80) (Ord. 1, passed 1-1-1978)

§ 34.03 PARTIAL PRE-PAYMENT OF SPECIAL ASSESSMENTS PERMITTED.

(A) *When made*. Partial pre-payments of special assessments for local improvements may be made after the adoption of the assessment and prior to the first certification thereof to the County Auditor.

(B) *Amount.* There may be only 1 partial pre-payment and it must be in an amount not less than $100.

(2013 Code, § 2.81) (Ord. 82, passed 12-24-1981)

§ 34.04 DEFERMENT OF SPECIAL ASSESSMENTS.

(A) *Qualifications*. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability, and the Finance Director is hereby authorized to record the deferment of special assessments where the following conditions are met; but nothing herein contained shall be construed to prohibit the determination of such a hardship on the basis of exceptional and unusual circumstances not covered by these standards and guidelines where the determination is made by the Council in a nondiscriminatory manner that a deferment should be granted when such deferment does not give the applicant an unreasonable preference or advantage over other applicants.

(1) Any applicant must be 65 years of age, or older, or retired by virtue of permanent and total disability, and must own a legal or equitable interest in the property applied for which must be the homestead of the applicant.

(2) The applicant and any other owner of said property who resides therein with the applicant shall not have an annual gross income in excess of the Section 8, low-income limits in effect at the time of the application as established by the Department of Housing and Urban Development. Income specified in the application should be the income of the year preceding the year in which the application is made, or the average income of the 3 years prior to the year in which the application is made.

(3) The applicant and any other owner of said property who resides therein with the applicant shall not have gross assets (excluding the homestead property) in excess of $48,000.

(4) The limitations on an applicant's assets, and property market value may be adjusted on an annual basis upon recommendation of the City Administrator and motion of the Council.

(5) Unless otherwise provided under the resolution adopting said assessments, all such deferred assessments shall bear interest at the rate of 8% per annum.

(6) This procedure shall not apply to any assessment of $100 or less.

(B) *Length*. The deferment shall be granted for as long a period of time as the hardship exists and the conditions as aforementioned have been met; however, it shall be the duty of the applicant to notify the City Clerk of any change in status that would affect eligibility for deferment.

(C) *Interest*.

(1) The entire amount of deferred special assessments shall be due within 60 days after loss of eligibility by the applicant. If the special assessment is not paid within 60 days, the City Clerk shall add thereto interest at 8% per annum from date assessments were adopted through December 31 of the following year and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year.

(2) Should the applicant plead and prove to the satisfaction of the Council that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within 60 days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

(D) *When due*. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the

following:

(1) The death of the owner when there is no spouse who is eligible for deferment;

(2) The sale, transfer, or subdivision of all or any part of the property;

(3) Loss of homestead status on the property; and

(4) Determination by the Council for any reason that there would be no hardship to require immediate or partial payment.

(2013 Code, § 2.82) (Ord. 121, passed 8-4-1983; Ord. 268, passed 7-21-1989; Ord. 337, passed 7-23-1992; Ord. 561, passed 11-25-1999)

§ 34.05 CAPITAL IMPROVEMENT FUND.

(A) *Established*. A Public Works Reserve Fund, to be known as the Capital Improvement Fund, is hereby established pursuant to the authority granted by M.S. § 471.57, as it may be amended from time to time, with authority to levy taxes annually within the existing limits for the support of such Fund and into which Fund may be paid any other revenues or monies not required by statute to be paid into some other fund or used for purposes other than those provided for by this section for the use of the Capital Improvement Fund.

(B) *Purpose of Fund*. This Capital Improvement Fund shall be used only to finance local capital improvements of a type for which the city is authorized to issue bonds and including, but not limited to, sanitary and drainage sewers, watermains and appurtenances, buildings, streets, street lighting, and street signaling. Whenever the Capital Improvement Fund balance falls below $75,000 the City Treasurer must immediately advise the Council and the Council shall take steps by resolution to replenish the Fund, with or without interest.

(2013 Code, § 2.83) (Ord. 134, passed 10-6-1983)

§ 34.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 2.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

TITLE V: PUBLIC WORKS

Chapter

CHAPTER 50: UTILITIES

Section

GENERAL PROVISIONS

§ 50.01 DEFINITIONS.

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

COMPANY. COMPANY, ***GRANTEE***, and ***FRANCHISEE*** shall refer to any public utility system to which a franchise has been granted by the city.

MUNICIPAL UTILITY. Any city-owned utility system, including, but not by way of limitation, water, sewerage, and refuse service.

SERVICE. Providing a particular utility to a customer or consumer.

UTILITY. All utility services, whether the same be public city-owned facilities or furnished by public utility companies.

(2013 Code, § 3.01)

§ 50.02 FIXING RATES AND CHARGES FOR SEWERAGE SERVICE.

All rates and charges for sewerage service including, but not by way of limitation, rates for service, availability, connection, disconnection, and reconnection fees, including penalties for non-payment, if any, shall be fixed, determined, and amended by the Council and adopted by resolution. The owners of all property served with sanitary sewer service must pay their proportionate cost and charges for the collection and disposal of sewage. If a property owner defaults in the payment of these costs and charges, the City Council may, pursuant to M.S. § 444.075, levy an annual assessment equal to such unpaid costs and charges against each lot or parcel of land for which such charges and costs remain unpaid. The assessment shall be certified to the County Auditor and shall be collected and remitted to the city in the same manner as assessments for local improvements.

(2013 Code, § 3.02) (Ord. 1, passed 4-1-1978; Ord. 402, passed 2-16-1995; Ord. 917, passed 10-6-2015)

§ 50.03 PROHIBITED ACTS.

It is unlawful for any person, firm, association, or corporation other than an authorized agent or employee of the city and its various commissions to, in any manner whatever, interfere with or change or interrupt the operation of any municipally-owned or controlled public utility by manipulating, turning, operating, or working with any valve, switch, or lever or any appurtenance connected thereto or used in connection therewith, including, but not limited to, all mains, pipes, outlets, inlets, hydrants, poles, wires, and cables whether buried or overhead.

(2013 Code, § 3.03) (Ord. 76, passed 11-12-1981) Penalty, see § 50.99

TELECOMMUNICATIONS PERMIT

§ 50.15 PURPOSE.

The City Council is adopting this subchapter to govern the construction, installation, operation, repair, maintenance, removal, and relocation of facilities and equipment used for the transmission of telecommunications or related services in the public ground of the city.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.16 DEFINITIONS.

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

meaning.

COMPANY. A person as defined in § 10.05, a political subdivision, or a public or private agency of any kind, its successors, and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove, or relocate facilities in the city.

DIRECTOR. The Director of Public Works or the Director's designee.

FACILITIES. Telecommunications equipment of any kind, including, but not limited to, equipment for the transmission of audio, video, data, paging, facsimile, or similar service, not governed by M.S. Ch. 238, as it may be amended from time to time, including all trunks, lines, cables, wires, optical fibers, laser equipment, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased, or operated by a company in, on, over, under, across, or along any public ground.

PUBLIC GROUND. A street as defined in § 10.05.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.17 PERMIT PROCEDURE.

(A) *Permit required*. A company may not construct, install, repair, remove, or relocate facilities, or any part thereof, in, on, over, under, across, or along public ground without first obtaining a permit from the city.

(B) *Application*. Application for a permit is made to the Director, on forms prepared by the city.

(C) *Issuance of permit*. If the Director determines that the applicant has satisfied the requirements of this subchapter, the Director may issue a permit to the company. An applicant may contest a permit denial or the conditions of approval by written notice to the City Clerk requesting a City Council review within 14 days of the Director's action. The City Council shall hear any contest of the Director's actions under this subchapter within 45 days of the City Clerk's receipt of the contest notice.

(D) *Permit not exclusive*. Nothing in this subchapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to the issuance of a permit set forth herein.

(E) *Permit fee*. The application must be accompanied by the permit fee set by the City Council in its most recent fee resolution.

(F) *Security*.

(1) Prior to commencement of work, the company must deposit with the city, security in the form of a certified check, letter of credit, or construction bond, in a sufficient amount as determined by the Director for the completion of the work. The securities will be held until the work is completed, plus a period of 12 months thereafter to guarantee that restoration work has been satisfactorily completed. The security then will be returned to the company, with interest if required by law, at the applicable statutory rate.

(2) Upon application of the company, providing such information as the Director may require, if 2 or more work projects are to be constructed during a calendar year, the Director may accept a single security for multiple projects, in lieu of separate security for each project. This security shall be in such form and amount as determined, in the discretion of the Director, to be sufficient to assure completion of all projects which may be in progress at any 1 time during that calendar year and to guaranty that restoration work will be satisfactorily completed.

(G) *Inspection of work*. When the work is completed, the company must request an inspection by the Director. The Director will determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval or disapproval.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.18 RESTORATION AND RELOCATION.

(A) *Restoration*.

(1) Upon completion of the work, the company must restore the general area of the work, including pavement and its foundations, to the same or better condition than existed prior to commencement of the work, and must exercise reasonable care to maintain the same condition for 2 years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly

perform and complete the work, remove all dirt, rubbish, equipment, and material, and restore the public ground to the same or better condition, the city may put it in the same condition at the expense of the company.

(2) The company must, upon demand, pay to the city the direct and indirect costs of the work done for or performed by the city, including, but not limited to, the city's administrative costs. To recover its costs, the city will first draw upon the security posted by the company, and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any other remedies available to the city.

(B) *Company-initiated relocation*. The company must give the city written notice prior to a company-initiated relocation of facilities. A company-initiated relocation must be at the company's expense and must have the prior approval of the city, which approval shall not be unreasonably withheld.

(C) *City-required relocation*. The company must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the city requires such relocation.

(D) *Relocation where public ground vacated*. The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the city. If the vacation proceedings are initiated by the company, the company must pay the relocation costs. If the vacation proceedings are initiated by the city or other persons, the company must pay the relocation costs unless otherwise agreed to by the city, company, and other affected persons.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.19 COMPANY DEFAULT.

(A) *Notice*. If the company is in default in the performance of the work authorized by the permit, including, but not limited to, restoration requirements, for more than 30 days after receiving written notice from the city of the default, then the city may terminate the rights of the company under the permit. The notice of default must be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice must be served on the company by personally delivering it to an officer thereof at the business address given on the permit application, or by certified mail to that address.

(B) *City action on default*. If the company is in default in the performance of the work authorized by the permit, the city may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company must reimburse the city for the city's reasonable costs, including costs of collection and +s' fees incurred as a result of the company default. The security posted under this subchapter will be applied by the city first toward payment for such reimbursement.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.20 INDEMNIFICATION.

(A) *Scope*. The company will indemnify, keep, and hold the city, its elected officials, officers, employees, and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, removal, relocation, or operation of the facilities affecting public ground, unless such injury or damage is the result of the negligence of the city, its elected officials, employees, officers, or agents. The city will notify the company of claims or actions and provide a reasonable opportunity for the company to accept and undertake the defense.

(B) *Claim defense*. If a claim or action is brought against the city under circumstances where indemnification applies, the company, at its sole expense, shall defend the city if written notice of the claim or action is given to the company within a period wherein the company is not prejudiced in the defense of such claim or action by lack of such notice. The company shall have complete control of such claim or action, but may not settle without the consent of the city, which shall not be unreasonably withheld. This division (B) is not, as to third parties, a waiver of any defense or immunity otherwise available to the city. In defending any action on behalf of the city, the company is entitled to assert every defense or immunity that the city could assert in its own behalf.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.21 OTHER CONDITIONS OF USE.

(A) *Use of public ground*. Facilities must be located, constructed, installed, maintained, or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground. The facilities are subject to such additional conditions as the Director may place on the permit, including, but not limited to:

(1) The right of inspection by the city at reasonable times and places;

(2) The obligation to relocate the facilities; and

(3) Compliance with all applicable regulations of City Public Utilities Commission, the State Public Utilities Commission, and other state and federal law and regulation, including prompt compliance with the requirements of the Gopher State One Call Program, M.S. Ch. 216D, as it may be amended from time to time.

(B) *Location*. The facilities must be placed in a location agreed to by the city. The company shall give the city 45 days' advance written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the city's receipt of the company's written notice, the city will notify the company in writing of the city's acceptance or rejection of the proposed location. If the city rejects the company's proposed location, the city shall propose alternative locations. The city does not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

(C) *Emergency work*. A company may open and disturb the surface of public ground without a permit when an emergency exists requiring the immediate repair of its facilities. In such event, the company must request a permit not later than the second working day thereafter, and must comply with the conditions of the permit. In no event may the company undertake such an activity which will result in the closing of a street or alley without prior notification to the city.

(D) *Street improvements, paving, or resurfacing*.

(1) The city will give the company written notice of plans for street improvements where permanent paving or resurfacing is involved.

(2) The notice shall contain:

(a) The nature and character of the improvements;

(b) The streets upon which the improvements are to be made;

(c) The extent of the improvements;

(d) The time when the city will start the work; and

(e) If more than 1 street is involved, the sequence in which the work is to proceed.

(E) *Company protection of facilities*. The company must take reasonable measures to prevent its facilities from causing damage to persons or property. The company must take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take all reasonable protective measures when the city performs work near the facilities.

(F) *Prior service connections*. In cases where the city is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five-year period following the paving or resurfacing.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.22 ACCEPTANCE OF REQUIREMENTS.

By receiving a permit under this subchapter, the company accepts and agrees to comply with all the requirements of this subchapter.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.23 PUBLIC GROUND OTHER THAN RIGHT-OF-WAY.

(A) Nothing in this subchapter is intended to grant to the company authority beyond that given by M.S.§ 222.37, as it may be amended from time to time, for use of the public rights-of-way for construction and operation of facilities.

(B) If the city allows the company to use its non-right-of-way public ground, the terms of this subchapter apply to the extent they are consistent with the contract, statutory, and common law rights the city owns in such property.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.24 REGULATIONS AND PERMIT SCHEDULES.

The Director is authorized and directed to prepare suitable regulations, design standards, and schedules for the issuance and administration of permits issued under this subchapter.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.25 APPLICATION TO EXISTING FACILITIES.

Companies with facilities in, on, over, under, across, or along public ground on the effective date of this subchapter must take prompt action to comply with this subchapter.

(2013 Code, § 3.50) (Ord. 455, passed 6-20-1996)

§ 50.99 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 3.99)

(B) In addition to § 50.03, and in the event any person, firm, association, or corporation violates either directly or by agent or employee or a combination thereof any provisions hereof and has funds or monies coming from the city for any reason, the payment thereof shall be withheld until any and all damages resulting from the doing of any of the prohibited acts is paid in full, otherwise reimbursement for any and all damages so caused shall be paid to the city or recovered by a civil action.

(2013 Code, § 3.03)

(Ord. 1, passed 4-1-1978; Ord. 76, passed 11-12-1981; Ord. 337, passed 7-23-1992)

CHAPTER 51: REFUSE AND RECYCLABLES

Section

§ 51.01 DEFINITIONS.

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

CANS. All disposable containers made and fabricated primarily of metal, aluminum, and tin.

GLASS. Includes products used as bottles, jars, and other glass containers, excluding however, blue and flat glass commonly known as "window glass".

NEWSPAPER. Paper of the type commonly referred to as newsprint.

RECEPTACLE. Means, with respect to refuse receptacles, individual containers constructed of weather-proof, insect- and rodent-proof materials such as plastic or metal for refuse and recycling purposes and, with respect to recycling receptacles, individual containers constructed of a durable material such as plastic or metal suitable for holding recyclable materials.

RECYCLABLE MATERIALS. Materials which can be reused through recycling, including newspaper, glass, cans, and yard waste.

RECYCLING. Any process by which materials which would otherwise become solid waste are collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products.

REFUSE. Includes garbage, refuse, and litter, but shall exclude construction materials.

REFUSE/RECYCLING SERVICE AREA. The area in which the city shall contract for the collection and disposal of refuse, recyclable materials, and yard waste, defined as the area within the city's metropolitan urban service area.

YARD WASTE. Grass clippings and leaves.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992; Ord. 490, passed 7-10-1997; Ord. 825, passed 8-27-2009)

§ 51.02 DISPOSAL REQUIRED.

Every person shall, in a sanitary manner, store and dispose of refuse and recyclable materials that may accumulate upon property owned or occupied by that person in accordance with the terms of this chapter. Refuse shall be collected or otherwise disposed of at least once a week.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992)

§ 51.03 CITY'S CONTRACTOR TO COLLECT AND DISPOSE OF REFUSE.

(A) Within the refuse/recycling service area, the city's contractor shall collect and dispose of refuse, yard waste, and recyclable materials from single-family dwellings, duplexes, and triplexes and all other residential dwelling units that receive individual curbside pickup of refuse.

(B) Owners of residential property larger than triplexes that do not receive individual curbside pickup of refuse, residential dwelling units located outside the refuse/recycling service area, and all business establishments, shall contract with refuse collectors directly and

may not receive city collection service.

(C) Refuse and recyclable materials shall be collected weekly or every other week. In the event that a property is found to be without refuse collection service, that address shall be added to the list of address serviced by the city's contractor, and the service provided and billed accordingly.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992; Ord. 594, passed 3-15-2001; Ord. 893, passed 10-7-2014)

§ 51.04 KIND AND PLACEMENT OF RECEPTACLES.

(A) *Residential units*. The refuse hauler shall provide separate refuse and recycling receptacles to each living unit in a single-family dwelling, duplex, or triplex. The refuse receptacles shall be made of plastic and equipped with handles. These receptacles shall be water-tight and use a substantially tight-fitting cover to prevent the disturbance of contents thereof by cats and dogs, and to prevent the propagation of, and infestation by, rats, flies, and other vermin. The refuse hauler also shall provide each living unit with a recycling receptacle that shall be constructed of weather-proof; insect- and rodent- proof material such as plastic. The cost of the receptacles shall be included in the refuse and recycling collection fees and receptacles shall not exceed 95 gallons in capacity.

(B) *Commercial and industrial establishments.* The owner of any residential unit larger than a triplex, and the manager of any business shall provide refuse receptacles. The refuse receptacle or receptacles shall be in excess of 65 gallons in capacity and shall be of sufficient size and/or number to handle the accumulation of refuse between collections by the hauler. These receptacles shall be water-tight and equipped with substantially tight-fitting covers to prevent the disturbance of contents, and to prevent the propagation of, and infestation by rats, flies, and other vermin. They shall be well maintained and bear identification of the refuse hauler supplying the containers, including the phone number.

(C) *Placement of receptacles*. Insofar as practical, receptacles shall be kept in the rear yard of homes and other places served as near to the alley and accessible to the collector as possible, and in those instances where homes and other places are not adjacent to alleys, the receptacles shall be placed on the driveway or other place convenient to the collector by 6:00 a.m., on the designated day of collection. Receptacles shall be removed by 7:00 a.m. on the designated day of collection and shall not otherwise be stored in areas of the front yard visible from the front curb line.

(D) *Wrapped*. All refuse from residential units shall be wrapped.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992; Ord. 893, passed 10-7-2014)

§ 51.05 SEPARATION OF RECYCLABLE MATERIALS.

Materials collected by the city's contractor shall be separated, prepared, and placed for collection in the manner hereinafter set forth.

(A) *Refuse*. Refuse shall only be placed into its designated receptacle. No hazardous material, yard waste, or hot ashes should be placed into this receptacle. All material shall fit within the confines of the receptacle.

(B) *Recycling*. Recyclable material shall be placed into its designated receptacle (newspaper, glass, cans, and the like). No garbage, hazardous material, yard waste, or hot ashes should be placed into a receptacle designated as recycling. All recyclable material shall fit within the confines of the receptacle.

(C) *Bulk items*. Bulk item removal is available for residents upon request to the contracted hauler, which shall provide specific instructions for collection and may impose additional fees for bulk items.

(D) *Yard waste*. Yard waste shall be placed in compostable bags or a designated waste cart. Yard waste should be free from refuse and recyclable material.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992; Ord. 893, passed 10-7-2014) Penalty, see § 51.99

§ 51.06 FEES.

The city shall charge a fee for the collection and disposal of refuse and recyclable material. The fee shall be set annually by the City Council.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992)

§ 51.07 COLLECTION OF COSTS AND CHARGES.

The owners of all property within the refuse/recycling service area must pay their proportionate cost and charges for the collection and disposal of refuse and recyclable materials. If a property owner defaults in the payment of these costs and charges, the City Council may annually levy an assessment equal to such unpaid costs and charges as of September 1 of each year against each lot or parcel of land for which such charges and costs remain unpaid. Such assessment may include a penalty not to exceed 10% of the amount due and must bear interest at such amount as the Council determines, not to exceed 6% per annum. The assessment shall be certified to the County Auditor and shall be collected and remitted to the city in the same manner as assessments for local improvements.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992; Ord. 583, passed 10-26-2000)

§ 51.08 ILLEGAL ACTS.

(A) *General prohibition*. No person shall collect, haul, or dispose of refuse or recyclable materials collected in the city except as provided in this chapter.

(B) *Storing of refuse*. It is unlawful for any person to throw, place, or deposit rubbish in any street, alley, sidewalk, or on any public or private property except in a receptacle as described in this chapter.

(C) *Removal of refuse*. It is unlawful for any person to remove any refuse from a receptacle other than the refuse haulers or persons having the consent of the owner or occupant of the property served or law enforcement agencies in the pursuit of evidence.

(D) *Property maintenance*. The owner and occupant of any private property shall maintain the property in a condition free of strewn or piled refuse.

(E) *Adequate receptacles*. The owner of any residential unit larger than a triplex, and the manager of any business shall provide sufficient refuse receptacles to contain all refuse generated at that location.

(F) *Removal of recyclable materials*. From the time of placement of the recyclable materials at the curb or other designated place of collection, said recyclable materials shall become and be the property of the city or its duly authorized contractor as determined by the city. It is unlawful for any person other than as specified in this chapter to collect or cause to be collected any recyclable materials placed at the curb or other designated place for collection. Any and each such unauthorized collection in violation hereof from 1 or more residences shall constitute a separate distinct offense.

(G) *Unwarranted disposal*. It is unlawful for any person to throw, place, or deposit refuse, recyclable materials, construction materials, or brush upon public or private property unless otherwise permitted by the property owner.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992) Penalty, see § 51.99

§ 51.09 LICENSE REQUIREMENTS.

(A) Each person desiring to collect, haul, or dispose of refuse or recyclable materials shall first secure a license from the city.

(B) The license shall be valid for 1 calendar year and shall expire on December 31 of each year unless revoked sooner. For the purposes of implementing this chapter, all persons engaged in the business of refuse collection shall secure a license.

(C) An applicant for a license shall make application to the City Clerk through forms and procedures prescribed by the City Clerk. The application for a license, shall contain the following information:

(1) A list of the equipment proposed to be used in the collection, including information about the number, type, license number, and capacity of the collection vehicles and equipment to be used in the city;

(2) A description of the services to be rendered, including a brief description of recycling service offered;

(3) The place or places to which mixed municipal solid waste are to be hauled; and

(4) A detailed description of the applicant's service area. This description must include customer names and addresses, number of units for each customer, if applicable, and the types of services provided to each customer.

(D) An applicant must provide insurance as required by the city. This shall include $1,000,000 coverage of comprehensive general liability, personal injury, and automobile liability, completed operations. Insurance certificates evidencing that this insurance is in force with companies licensed in the state shall be provided to the city prior to approval of the license.

(E) The annual license fee shall be established by resolution of the City Council.

(F) The City Clerk shall issue licenses only after receipt and review of all required forms, certificates, and fees. Upon review of the documents submitted, the City Clerk shall issue a license if the documents comply with the provisions of this title.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992; Ord. 594, passed 3-15-2001)

§ 51.10 EXEMPTIONS.

(A) The license requirements of this title shall not apply to those entities listed below; provided, that the following conditions are met.

(1) Refuse shall be hauled in containers equipped with tight-fitting covers and which are also water-tight on all sides and the bottom.

(2) Refuse and recyclables are hauled in a manner that prevents leakage or any possibility of a loss of cargo.

(3) Refuse shall be disposed of only at designated sanitary landfills or other facilities authorized by the county.

(4) Recyclable materials shall be disposed of only at a recycling facility, an organized recycling drive, or through licensed collectors.

(5) Yard waste shall be privately composted, or disposed of at a composting facility authorized by the county, or through a licensed collector.

(B) Exempt entities are as follows:

(1) Nonprofit groups participating in recycling programs;

(2) Persons who haul garbage, refuse, or recyclables from their own residences or business properties; and

(3) Companies renting a dumpster or bin for construction debris.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992)

§ 51.11 DUTIES AND OBLIGATIONS OF LICENSED HAULER.

A licensed hauler must comply with the following operational requirements. Failure to observe these provisions may be a basis for suspension or revocation of a license.

(A) The licensee shall operate in a manner consistent with its application materials and shall provide notice to the city within 10 days of any changes in the information, forms, or certificates filed as a part of the license application process.

(B) No collections of refuse or recyclable materials shall be made except between the hours of 6:30 a.m. and 6:00 p.m., Monday through Friday. Operations during these hours also may be conducted on Saturdays, to accommodate recognized national holidays and snow emergencies. Customers shall be notified of the specific day and approximate hours for the collection of their refuse and recyclable materials and the licensee shall collect the materials within those time periods.

(C) Each licensed hauler shall only use vehicles and equipment so constructed that the contents will not leak or spill. The vehicles and equipment also shall be kept clean and free from offensive odor, and shall not stand in any street, alley, or public place longer than

is reasonably necessary to collect mixed municipal solid waste. The licensee also shall ensure that the collection site is left tidy and free of litter.

(D) Each licensed hauler shall provide its customers with an opportunity to recycle through a weekly or every other week curbside collection of recyclable materials.

(E) Each licensee shall submit an annual report to the city that identifies the weight, in tons, of refuse, recyclables materials, and special pick-up materials that were collected by the licensee from city sources. The report shall be provided on or before January 20. The report also shall identify the weight of each type of collected recyclable. It shall distinguish residential collection tonnage from business tonnage. The report shall include a brief description of how the reported weights were calculated. The report must include an address list of every account collected by the licensee.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992)

§ 51.12 SUSPENSION OR REVOCATION OF LICENSE.

Upon the recommendation of the City Administrator, the City Council may suspend or revoke the license of any person whose conduct is found to be in violation of the provisions of this title. Suspension or revocation also may be based on other health, safety, and welfare concerns arising out of the performance of the licensee, its employees, agents, and/or vehicles and equipment. 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 given at least 10 days prior to the hearing, include notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992)

§ 51.13 RESERVATION OF RIGHTS.

No hauler licensed pursuant to this chapter shall acquire a vested right in the license. The city may, upon finding that public necessity so requires, establish other means of refuse collection.

(2013 Code, § 3.15) (Ord. 273, passed 10-13-1989; Ord. 324, passed 12-12-1991; Ord. 330, passed 2-27-1992) Penalty, see § 51.99

§ 51.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 3.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 52: SEWER

Section

§ 52.01 DEFINITIONS.

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

INDUSTRIAL WASTE. Any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacturing, trade, or business, or from development of any natural resources.

SEWAGE. Water-carried waste products from residences, public buildings, institutions, or other buildings or premises, including the excrement or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

SEWERAGE SERVICE. The use of and benefit from the sewerage system, including the collection, transportation, pumping, treatment, and final disposal of sewage.

SEWERAGE SYSTEM. Includes all street lateral, main, and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated, and disposed of; provided, that this shall not include plumbing inside or a part of a building or premises served, or service sewers from a building to the street lateral.

(2013 Code, § 3.10)

§ 52.02 METERED WATER NOT DISCHARGES.

If a portion of the water furnished to any premises is not directly or indirectly discharged into the sewerage system, the quantity of such water shall be deducted in computing the sewerage service charge or rental; provided, a separate meter shall be installed and operated to register the quantity so not discharged into the sewerage system; provided, also, that where it is not practicable to meter the portion of the water not discharged into the sewerage system, such adjustment may be made as shall be fair and equitable in order to determine the amount of such service charge or rental, but until such adjustment shall be effected that water consumption basis hereinbefore prescribed shall remain in full force and effect.

(2013 Code, § 3.10)

§ 52.03 CLASSIFICATION OF INDUSTRIAL WASTES.

The city shall have power to classify the industrial wastes from any lot, parcel of land, building, or premises discharged therefrom into the sewerage system of the city, taking into consideration the quantity of sewage produced and its concentration, strength of river pollution qualities in general, and any other factors entering into the cost of its disposal. For the purpose of fixing and prescribing a distinct rate of rental or use charge, should it be found that as to such sewer uses, the water basis consumption does not provide a practicable method in the premises, but until so determined and such distinct rate fixed, the water consumption basis herein before

prescribed shall remain in full force and effect as to such commercial or industrial users.

(2013 Code, § 3.10)

§ 52.04 DELETERIOUS SUBSTANCES.

No sewage including industrial wastes, shall contain any substance which is deemed deleterious by the city to the operation of the sewerage system or to any plant or facilities used in the treatment or disposal of such sewage. If a user of the sewerage system discharges excessive loads or any deleterious substances therein which are likely to retard or injuriously affect sewerage operations, the user shall discontinue such practice and such practice is hereby declared to be a violation of this chapter. Each day of such violation continuing after having been notified in writing by the City Administrator to discontinue such practice shall be deemed a separate violation.

(2013 Code, § 3.10) Penalty, see § 52.99

§ 52.05 UNLAWFUL DISCHARGE.

It is unlawful to discharge any of the following described wastes into the sewerage system:

(A) Liquids having a temperature higher than 150°F;

(B) Water or waste which contains more than 500 milligrams/liter of fat, oil, or grease;

(C) Gasoline, benzene, naphtha, fuel oil, or other inflammable or explosive liquid, solid, or gas;

(D) Garbage, except such as has been property shredded;

(E) Ashes, cinders, shavings, feathers, tar, or other liquid or viscous substance capable of causing obstruction to the flow in sewerage system or other interference with the proper operation of the system;

(F) Noxious or malodorous substances capable of creating a public nuisance; or

(G) Roof water, ground water, or any other natural precipitation.

(2013 Code, § 3.10) (Ord. 766, passed 8-17-2006) Penalty, see § 52.99

§ 52.06 UNMETERED WATER SUPPLY.

(A) If any premises discharge normal sewage or industrial waste into the sanitary sewerage system, either directly or indirectly, or obtain part or all of the water used thereon from sources other than the city, and the water so obtained is not measured by a meter of equivalent specifications to the meters used by the city, then in such case the city shall permit the discharge of normal sewage or industrial waste into its sanitary sewerage system only when the owner of such premises or some other interested party shall, at that person's own expense, install and maintain for the purpose of metering such water supply a water meter of equivalent specifications to those installed by the city in connection with the city water system.

(B) (1) Each water meter shall be installed to measure all water received on such premises and the above charges and rates shall be applied to the quantity of water received as measured by such meter. If, because of the nature of the source of the water supply, the city deems it impracticable to thus meter the water on any premises, the Council may by resolution establish a flat charge per month in accordance with the estimated use of water on such premises.

(2) In the alternative, at the option of the city, discharge into the city sewerage system may be metered; provided, that special equipment necessary therefor shall be installed at the expense of the consumer.

(2013 Code, § 3.10)

§ 52.07 SIZE OF PIPE.

The city may prescribe the kind and size of sewerage service pipe and connections, but the minimum when placed underground shall be 4 inches in diameter.

(2013 Code, § 3.10)

§ 52.08 HOOK-UP REQUIRED.

Any property abutting a public street or alley in which sanitary sewer mains have been constructed, and any residential property abutting a public street or alley in which city water lines have been constructed, must be connected to said sewermains and water line within 3 years or immediately upon a private system becoming defective, whichever occurs first. A system becomes defective when substantial repair is needed, such as replacement of drain field lines, pumping of tanks, or replacement of a well pump motor.

(2013 Code, § 3.10)

§ 52.09 PERMITTED USES OF PRIVATE WELLS.

Owners of private wells may continue to use such wells for yard watering, car washing, and similar uses providing it is entirely disconnected from the interior supply lines and there is no cross-connection to public water systems.

(2013 Code, § 3.10) (Ord. 1, passed 4-1-1978; Ord. 77, passed 10-29-1981; Ord. 337, passed 7-23-1992; Ord. 365, passed 6-24-1993)

§ 52.10 GREASE INTERCEPTORS REQUIRED.

(A) *Scope and purpose.* To aid in the prevention of sanitary sewer blockages and obstructions from the contribution and accumulation of fats, oils, and greases into the sewer system from industrial or commercial establishments, particularly food preparation and serving facilities. This chapter shall apply to the city and to persons outside of the city who, by contract or agreement with the city, are users of the city's sanitary sewer system.

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

FOOD SERVICE ESTABLISHMENT. Any facility that:

(a) Cuts, cooks, bakes, prepares, or serves food or which disposes of food-related wastes or has a local, state, and/or federal food service permit or license; and

(b) Is connected to the city's sanitary sewer system.

GREASE INTERCEPTOR. A water-tight receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect, and restrict the passage of grease and food particles into the sewer system to which the receptacle is directly or indirectly connected and to separate and retain grease and food particles from the wastewater discharged by the facility.

(C) *Grease interceptors required*.

(1) Grease interceptors shall be required at all food service establishments in the city, unless otherwise exempted by this chapter. Grease interceptors shall be installed at the food service establishment's expense. All grease interceptors required under this division (C) shall be of a type, design, and capacity in accordance with the requirements set forth in the State Plumbing Code, M. S. Ch. 4715, as it may be amended from time to time, and this chapter. All grease interceptor construction, installation, and maintenance shall be in accordance with the State Plumbing Code, M. S. Ch. 4715, as it may be amended from time to time, and this chapter.

(2) New food service establishments required by this chapter to maintain a grease interceptor shall install a unit prior to commencement of discharge to the sewer system.

(3) An existing food service establishment shall be required to install an approved, adequately sized, and properly operated and maintained grease interceptor within 18 months of the effective date of this chapter, if prior to the 18-month period, the food service establishment is making improvements to its food preparation or kitchen waste plumbing facilities, a grease interceptor must be installed at that time.

(D) *Exemptions*. A food service establishment that discharges less than 500 milligrams/liter of grease into the city's sanitary sewer system may be exempted from the grease interceptor requirement if the food service establishment can provide documentation satisfactory to the city that shows that its grease discharge is less than 500 milligrams/liter.

(E) *Inspection, cleaning, and monitoring*.

(1) All food service establishments having grease interceptors shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain written records indicating inspection, maintenance, and cleaning of the grease interceptor. The volumes of greases and solids in the grease interceptor must not exceed the designed grease and solids storage capacity of the unit at any time. Grease interceptors shall be inspected by the food service establishment at least once per week. Unless otherwise specified by the city's Public Works Director, each grease interceptor shall be cleaned at least once every 3 months or more frequently as needed to prevent carry over of grease into the sewer system.

(2) The written records to be maintained by the food service establishment shall indicate: dates of inspection; dates of maintenance; person performing maintenance; dates of cleaning; estimated volume of grease removed; receipts from haulers; disposal locations; and the facility manager's verification. These records shall be retained by the food service establishment for a period of 3 years and shall be available at the facility for inspection by the city.

(3) It shall be unlawful for a food service establishment to refuse to allow the city's inspectors to enter its premises during reasonable hours to determine whether the food service establishment is complying with all of the requirements of this section. A food service establishment shall allow the city inspectors access to all parts of the premises for purposes of inspection, sampling, records examination and copying, and the performance of additional duties. The city shall make arrangements for access ahead of time, but the city's failure to make arrangements ahead of time shall not be considered a legitimate reason to refuse admittance of the city inspectors.

(4) If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as a part of a routine inspection and sampling program of the city designated to verify compliance with this chapter or to protect the public health, safety, and welfare, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(F) *Violations*.

(1) It is unlawful for any food service establishment to discharge into the sewer system in any manner that is in violation of this chapter, or of any condition set forth in this chapter. Additionally, an individual commits an offense if the individual causes or permits the plugging or blocking of, or otherwise interferes with or permits the interference of a grease interceptor or the sewer system, including alteration or removal of any flow constricting devices so as to cause flow to rise above the design capacity of the grease interceptor.

(2) No person and/or facility shall discharge grease in excess of 500 milligrams/liter to the sewer system. If such discharge occurs, the person or facility shall be considered to be in violation of this chapter and subject to the remedies described. This includes facilities that are not required by this chapter to install grease interceptors.

(3) In addition to prohibiting certain conduct by natural persons, it is the intent of this chapter to hold a corporation, association, limited liability company, or limited liability partnership legally responsible for prohibited conduct performed by an agent acting on behalf of the corporation or association and within the scope of their office or employment.

(G) *Enforcement*.

(1) The requirements set forth in this chapter shall be administered and enforced pursuant to the direction of the Public Works Director of the city. Employees of the city's Public Works Department may issue appropriate orders, issue tags for violation, or institute any other appropriate actions or proceedings against a violator as provided for in this chapter. Any violation of an order issued pursuant to this chapter by the Public Works Department of the city shall constitute a violation of this chapter.

(2) Any person, operator, or owner who shall violate any provision of this chapter, or who shall fail to comply with any provision, shall be prosecuted and punished in accordance with § 52.99.

(3) The city may also assess the violator's property for any expense, loss, or damage incurred by the city for reason of appropriate clean up and proper disposal of the waste materials. Additionally, an administrative fee equal to 1/4 of the assessed clean-up costs may be levied by the city against the violator.

(2013 Code, § 3.10) (Ord. 766, passed 8-17-2006) Penalty, see § 52.99

§ 52.11 SEWAGE AND WASTE CONTROL RULES AND REGULATIONS FOR THE METROPOLITAN SEWER BOARD ADOPTED.

Sewage and waste control rules and regulations for the Metropolitan Disposal System, as adopted under Minn. Rules 5900 pursuant to statutory authority, are hereby adopted by reference as though repeated verbatim herein.

(2013 Code, § 3.11) (Ord. 89, passed 2-25-1982; Ord. 408, passed 3-7-1995)

§ 52.12 CONSTRUCTION AND RECONSTRUCTION OF SANITARY SEWERMAINS.

(A) *Design criteria and standard specifications*. All construction of sanitary sewer mains and service laterals shall be strictly in accordance with the design criteria and standard specifications on file in the office of the City Engineer and open to public inspection during regular office hours. Such design criteria and standard specifications may be adopted and amended by resolution from time to time by the city and shall be uniformly enforced.

(B) *Permit required*.

(1) A written permit is required from the City Engineer to construct or reconstruct sanitary sewer or service laterals. Application for such permit shall be made on forms approved by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning work, and the length of time required to complete the same; provided, that no permit shall be required for any such improvement ordered installed by the Council.

(2) All applications shall be referred to the City Engineer and no permit shall be issued until approval has been received from the City Engineer. All such applications shall contain an agreement by the applicant to be bound by this title. Plans and specifications consistent with the design criteria and standard specifications shall be approved by the City Engineer and shall also accompany the application. A permit from the city shall not relieve the permit holder from damages to the person or property of another caused by such work.

(C) *Inspection*. The City Engineer shall inspect sanitary sewer construction and reconstruction. Any work not done according to the approved design criteria and standard specifications shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the City Engineer if found to be unsatisfactory and not in accordance with the design criteria and standard specifications, but this shall not place a continuing burden on the city to inspect or supervise such work.

(2013 Code, § 3.12) (Ord. 136, passed 10-27-1983)

§ 52.13 TRUNK SANITARY SEWER CHARGES.

(A) Each property located within the area described in the city's trunk sanitary sewer charge policy shall be bound by that policy.

(B) Each such property owner shall submit to the city the applicable trunk sanitary sewer charge at the earliest of the following times:

(1) For property being platted, prior to the recording of the final plat;

(2) For vacant property, at the time of issuance of a building permit; or

(3) For developed property, at the time of issuance of a permit to connect to the sanitary sewer system.

(2013 Code, § 3.13) (Ord. 398, passed 2-16-1995)

§ 52.14 INDUSTRIAL USER STRENGTH CHARGE.

(A) *Recitals*.

(1) The Metropolitan Waste Control Commission, a metropolitan commission organized and existing under the laws of the state (the "Commission"), in order to receive and retain grants in compliance with the Federal Water Pollution Control Act, being 33 U.S.C. 1251 et seq. and regulations thereunder (the "Act"), has determined to impose an industrial user sewer strength charge upon users of the Metropolitan Disposal System (as defined in M.S. § 473.121, subd. 24, as it may be amended from time to time, to recover

operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste, such sewer strength charge being in addition to the charge based upon the volume of discharge.

(2) In order to pay such costs based upon strength of industrial discharge and allocated to it each year by the Commission, it is hereby found, determined, and declared to be necessary to establish sewer strength charges and a formula for the computation thereof for all industrial users receiving waste treatment services within or served by the city. Furthermore, M.S. § 444.075, subd. 3, as it may be amended from time to time, empowers the city to make such sewer charge a charge against the owner, lessee, occupant, or all of them and certify unpaid charges to the County Auditor as a tax lien against the property served.

(B) *Establishment of strength charges*. For the purpose of paying the costs allocated to industries in the city each year by the Commission that are based upon the strength of discharge of all industrial users receiving waste treatment services within or served by the city, there is hereby approved, adopted, and established, in addition to the sewer charge based upon the volume of discharge a sewer charge upon each company or corporation receiving waste treatment services within or served by the city, based upon strength of industrial waste discharged into the sewer system of the city (the "strength charge").

(C) *Establishment of strength charge formula*. For the purpose of computation of the strength charge established by division (B) above, there is hereby established, approved, and adopted in compliance with the Act the same strength charge formula designated in Resolution No. 76-172, adopted by the governing body of the Commission on June 15, 1976, such formula being based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities and quantities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by the Commission.

(D) *Strength charge payment*. It is hereby approved, adopted, and established that the strength charge established by division (B) above shall be paid by each industrial user receiving waste treatment services and subject thereto to the Commission directly before the twentieth day next succeeding the date of billing thereof to such user by the Commission, and such payment thereof shall be deemed to be delinquent if not so paid to the Commission before such date.

(E) *Establishment of tax lien*. As provided by M.S. § 444.075, subd. 3, as it may be amended from time to time, it is hereby approved, adopted, and established that if payment of the strength charge established by division (B) above is not paid before the 60th day next succeeding the date of billing thereof to the industrial user by the Commission, said delinquent sewer strength charge may be deemed to be a charge against the owner, lessee, and occupant of the property served, and the Commission may request the city to certify such unpaid delinquent balance to the County Auditor with taxes against the property served for collection as other taxes are collected; provided, however, that such certification shall not preclude the Commission or its agent from recovery of such delinquent sewer strength charge and interest thereon under any other available remedy from the delinquent industry. If requested to certify the delinquent charges as assessments against the industries, the city shall certify the charges in accordance with normal procedures.

(2013 Code, § 3.20) (Ord. 384, passed 1-11-1977; Ord. 408, passed 3-4-1995)

§ 52.15 CONSTRUCTION AND DECONSTRUCTION OF STORM SEWER.

(A) *Design criteria and standard specifications*. All construction of storm sewers shall be strictly in accordance with the design criteria and standard specifications on file in the office of the City Engineer and open to public inspection during regular office hours. Such design criteria and standard specifications may be adopted and amended by resolution from time to time by the city and shall be uniformly enforced.

(B) *Permit required*.

(1) A written permit is required from the City Engineer to construct or reconstruct a storm sewer in public easement, public right-of-way, or other public property in the city. Application for such permit shall be made on forms approved and provided by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning work and the length of time required to complete the same; provided, that no permit shall be required for any such improvement ordered installed by the Council.

(2) All applications shall be referred to the City Engineer and no permit shall be issued until approval has been received from the City Engineer. All such applications shall contain an agreement by the applicant to be bound by this title. Plans and specifications consistent with the design criteria and standard specifications shall be approved by the City Engineer and shall also accompany the application. A permit from the city shall not relieve the permit holder from damages to the person or property of another caused by such work.

(C) *Inspection*. The City Engineer shall inspect storm sewer construction and reconstruction. Any work not done according to the approved design criteria and standard specifications shall be removed and corrected at the expense of the permit holder. Any work

done hereunder may be stopped by the City Engineer if found to be unsatisfactory or not in accordance with the design criteria and standard specifications, but this shall not place a continuing burden on the city to inspect or supervise such work.

(2013 Code, § 3.41) (Ord. 136, passed 10-27-1983)

§ 52.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 3.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 53: STORMWATER

Section

Cross-reference:

Water Resources Management, see Ch. 54

§ 53.01 STORMWATER DRAINING UTILITY ESTABLISHED.

(A) The municipal storm sewer system shall be operated as a public utility pursuant to M.S. § 444.075, as it may be amended from time to time, from which revenues will be derived subject to the provisions of this title and state statutes.

(B) The storm sewer drainage utility will be part of the Engineering Department and under the administration of the City Engineer.

(2013 Code, § 3.42)

§ 53.02 RESIDENTIAL EQUIVALENT FACTOR (REF) DEFINED.

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

RESIDENTIAL EQUIVALENT FACTOR (REF) - ONE (1) REF. The ratio of the average volume of runoff generated by 1

acre of a given land use to the average volume of runoff generated by 1 acre of typical single-family residential land, during a standard 1-year rainfall event.

(2013 Code, § 3.42)

§ 53.03 STORMWATER DRAINAGE FEES.

(A) Storm water drainage fees for parcels of land shall be determined by multiplying the REF for a parcel's land use by the parcel's acreage and then multiplying the resulting product by the stormwater drainage rate.

(B) The REF values for various land uses are as follows.

	Impervious Category	***REFs per Acre***	
		Water Quality Provided	***Water Quality Not Provided***
Infiltration Provided	A: Less than 35% impervious	1.0	1.0
	B: 35-60% impervious	1.4	1.4
	C: Greater than 60% impervious	1.7	1.7
Infiltration Not Provided	A: Less than 35% impervious	1.8	2.2
	B: 35-60% impervious	2.6	3.2
	C: Greater than 60% impervious	3.3	3.8

(C) For the purpose of calculating stormwater drainage fees, all developed 1-family and duplex parcels and improved agricultural parcels shall be considered to have an acreage of 1/3 acre and an REF of 1.00.

(2013 Code, § 3.42) (Ord. 920, passed 12-1-2015)

§ 53.04 CREDITS.

The Council may adopt policies recommended by the City Engineer, by resolution, for adjustment of the stormwater drainage fee for parcels based upon hydrologic data to be supplied by property owners, which data demonstrates a hydrologic response substantially different from the standards. Such adjustments of stormwater drainage fees shall not be made retroactively.

(2013 Code, § 3.42)

§ 53.05 EXEMPTIONS.

The following land uses are exempt from stormwater drainage fees:

(A) Public rights-of-way;

(B) Vacant, unimproved land with ground cover, including unimproved agricultural land with ground cover; and

(C) Cemetery lands.

(2013 Code, § 3.42)

§ 53.06 PAYMENT OF FEE.

Policy governing the payment of fees shall be specified by resolution.

(2013 Code, § 3.42)

§ 53.07 RECALCULATION OF FEE.

If a property owner or person responsible for paying the stormwater drainage fee questions the correctness of an invoice for such charge, such person may have the determination of the charge recomputed by written request to the City Engineer made within 12 months of mailing of the invoice in question by the city. The property owner may appeal the decision of the City Engineer to the Council by filing notice of said appeal with the City Administrator within 60 days of the City Engineer's decision.

(2013 Code, § 3.42)

§ 53.08 CERTIFICATION OF PAST-DUE FEES ON TAXES.

Any past-due stormwater drainage fees in excess of 90 days past due on October 1 of any year may be certified to the County Auditor for collection with real estate taxes in the following year pursuant to M.S. § 444.075, subd. 3, as it may be amended from time to time. In addition, the city shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.

(2013 Code, § 3.42) (Ord. 176, passed 8-8-1985; Ord. 240, passed 2-26-1988)

§ 53.09 TRUNK STORMWATER CHARGES.

(A) *Purpose*.

(1) M.S. § 444.075, as it may be amended from time to time, gives the city authority to impose just and equitable charges to pay for the acquisition, construction, reconstruction, repair, enlargement, improvement, maintenance, operation, and use of storm sewer systems for the collection and disposal of stormwater. The City Council has determined that new development in the city will create the need for acquisition, construction, reconstruction, improvement, maintenance, operation, and use of trunk stormwater facilities and regional ponding systems.

(2) The City Council has further determined that the stormwater drainage fees imposed by this section are inadequate to pay for the costs of these facilities and systems that are needed to accommodate development in the city. The City Council has further determined that it would be inequitable to increase the stormwater drainage fees to pay for new trunk stormwater facilities and regional ponding systems because such an increase would require previously developed properties to pay for facilities, the need for which is being generated primarily by new development rather than existing development.

(3) These new trunk stormwater facilities and regional ponding systems will be acquired, constructed, operated, used, and maintained in accordance with the city's comprehensive stormwater management plan. The City Council has considered the information, recommendations, and conclusions contained in the July 1996 (revised September 13, 1996) Trunk Stormwater Fee Justification Report prepared by WSB & Associates. Based on all of the above information, the City Council finds that it is necessary to impose trunk stormwater charges and stormwater storage and treatment charges to provide assurances that:

(a) An adequate stormwater drainage system can be financed, constructed, improved, and operated so that stormwater runoff from developing properties within the city can be reasonably accommodated, not only within these properties but also by downstream properties;

(b) The city will be able to acquire property for the construction of a trunk stormwater system as new development takes place so that the stormwater drainage needs of the city are met and so that property owners within the city will be treated fairly and equitably; and

(c) New development, which is creating the need for and being benefitted by new trunk stormwater drainage facilities and existing regional ponding systems, will pay its proportionate and equitable share of the cost of infrastructure improvements.

(B) *Trunk stormwater charges*. For the purpose of paying for the acquisition, construction, reconstruction, repair, enlargement, improvement, maintenance, operation, and use of trunk stormwater drainage facilities and regional ponding systems, there is hereby established and imposed trunk stormwater charges and stormwater storage and treatment charges. The amount of the charges and method of collection will be set by resolution of the City Council from time to time.

(2013 Code, § 3.43) (Ord. 463, passed 9-26-1996)

§ 53.99 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 3.99)

(B) Penalty for late payment shall be contained in the policy established for payment of fees.

(2013 Code, § 3.42)

(Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 54: WATER RESOURCES MANAGEMENT

Section

Cross-reference:

Stormwater, see Ch. 53

GENERAL PROVISIONS

§ 54.01 TITLE.

This chapter shall be known and may be referred to as the "Water Resource Ordinance" or the "Water Resource Chapter". When referred to herein it shall be known as "this chapter".

(2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.02 PURPOSE.

(A) This chapter is established to promote, preserve and enhance natural resources within the city and protect them from adverse effects occasioned by poorly-sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique or fragile environmentally sensitive land.

(B) This chapter minimizes conflicts and encourages compatibility between land disturbing and development activities and environmentally sensitive lands. By requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, this chapter achieves a balance between urban growth and development and the protection of water and natural resources within the city.

(2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.03 SCOPE.

(A) *Applicability.*

(1) Every applicant for subdivision approval, a conditional use permit, or a grading permit to allow land disturbing activities must submit a stormwater management plan to the Engineering Division of the city's Public Works Department. The stormwater management plan shall be submitted with the land use application, grading permit application, or as directed by the Public Works Director. No subdivision approval or grading permit will be issued until approval of the stormwater management plan or a waiver has been obtained in conformance with the provisions of this chapter.

(2) Every applicant for subdivision approval or a grading permit that involves wetland disturbing activities or work near wetlands must submit a wetland assessment and delineation report to the Engineering Division. The wetland assessment and delineation report

shall be submitted with the land use application, grading permit application, or as directed by the Public Works Director. No subdivision approval or grading permit will be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in conformance with the provisions of this chapter and the State Wetland Conservation Act of 1991, M.S. §§ 103G.222 through 103G.2375, as they may be amended from time to time, ("WCA").

(3) Every applicant for a building permit, subdivision approval, conditional use permit, or a grading permit must submit an application for an erosion control plan to the Engineering Division. The erosion control permit application and erosion control plan shall be submitted with the building permit application, land use application, grading permit application, or as directed by the Public Works Director. No grading permit or building permit will be issued until approval of the erosion control plan has been obtained in conformance with the erosion control measures, standards, and specifications contained in the State Pollution Control Agency publication, *Protecting Water Quality in Urban Areas*, or as otherwise approved by the Public Works Director.

(4) Construction, improvement, repair, or alteration of bridges, culvert crossings, driveways, roads, or utilities must obtain a grading permit if the activity involves crossing or impacting a watercourse with a tributary area in excess of 100 acres. The applicant shall provide documentation prepared by an engineer demonstrating that the hydraulic capacity of the watercourse conforms to the city's comprehensive water resources management plan and that activities improve watercourse stability.

(B) *Exemptions*. The provisions of this chapter do not apply to:

(1) Any part of a subdivision if a preliminary plat for the subdivision that has been approved by the City Council on or before the effective date hereof;

(2) Any land disturbing activity for which plans have been approved by the watershed management organization having jurisdictional control of the land within 6 months prior to the effective date hereof;

(3) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;

(3) Excavations or land moving activities involving less than 50 cubic yards of soil; or

(4) Emergency work to protect life, limb, or property.

(C) *Waiver*. The Public Works Director may waive any of the requirements of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the water quality and natural resources of the city or adversely impact environmentally sensitive land. The Public Works Director may require as a condition of the waiver that the applicant dedicate easements or construct certain facilities as the Public Works Director deems necessary.

(2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.04 APPLICATION OF THIS CHAPTER.

(A) In their interpretation and application, the provisions of this chapter shall be the requirements for the promotion of water resource management within the city.

(B) Where any provision of this chapter is either more restrictive or less restrictive than a comparable provision imposed by any other code, ordinance, statute, rule, or regulation of any kind, the more restrictive provision, or the provision which imposes a higher standard or requirement shall prevail.

(C) Words or terms defined in this chapter shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this chapter. The present tense shall include the past and future tenses.

(2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

STORMWATER MANAGEMENT

§ 54.15 STORMWATER MANAGEMENT PLAN.

(A) *Application procedure*.

(1) *Application*. A written application for stormwater management plan approval, along with a proposed stormwater management plan, shall be filed with the Engineering Division of the city's Public Works Department. The application shall include a statement indicating the grounds upon which the approval is being requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter and this code of ordinances.

(2) *Required plan submittals*.

(a) Two sets of clearly legible blue or black lined copies of drawings, electronic copy of drawings, and required information shall be submitted to the Engineering Division along with the process and approval fee. Information provided shall be prepared per the most recent edition of the city design criteria and certified by an engineer licensed in the state. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

(b) The plans shall be drawn at a minimum scale of 1 inch equals 100 feet and shall contain the following information:

1. *Existing site map*. A map of existing conditions showing the site and immediately adjacent areas within 200 feet of the site, including:

a. The name and address of the applicant, the section, township and range, north point, date, and scale of drawing and number of sheets;

b. The location of the property by showing an insert map at a scale sufficient to clearly identify its location and giving such information as the name and numbers of adjoining roads, railroads, utilities, subdivisions, cities, townships, and districts or other landmarks;

c. The existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;

d. A delineation of all ponds, infiltration features, streams, rivers, public waters, and wetlands located on and immediately adjacent to the site, including the depth of the water, the normal water level (NWL), the 100-year high water level (HWL), the ordinary high water level (OHW), a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the State Department of Natural Resources, the State Pollution Control Agency, or the U.S. Army Corps of Engineers;

e. The location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where stormwater collects;

f. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of stormwater system proposed and describing any remedial steps to be taken by the applicant to render the soils suitable;

g. The location and description of any vegetative cover and a clear delineation of any vegetation proposed for removal;

h. The location of 100-year floodplains, flood fringes, and floodways;

i. The locations of any existing overhead or underground utilities;

j. The locations of property lines and easements; and

k. A city-approved benchmark listing location and elevation.

2. *Site construction plan*. A site construction plan including:

a. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

b. Total site area;

c. Total area to be disturbed;

d. Locations and dimensions of all temporary soil or dirt stockpiles;

e. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter;

f. A schedule of the anticipated start and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter; and

g. Provisions for maintenance of the construction site erosion control measures during construction.

3. *Plan of final site conditions*. A plan of final site conditions on the same scale as the existing site map showing the proposed site changes including:

a. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

b. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size, and description of all proposed landscape materials which will be added to the site as part of the development;

c. A drainage plan of the developed site delineating in which direction and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect;

d. The proposed size, alignment, and intended use of any structures to be erected on the site;

e. A clear delineation and tabulation of all areas which will be paved or surfaced, including a description of the surfacing material to be used;

f. Any other information pertinent to the particular project which, in the opinion of the applicant or the Public Works Director, is necessary for the review of the project;

g. Proposed normal water level (NWL), 100-year high water level (HWL), ordinary high water level (OHW) of any ponds, infiltration facilities, streams, rivers, public waters, or wetlands on or downstream from the site;

h. Building elevations including low floor elevations and low building opening elevations; and

i. Overland emergency overflow routes and their elevations.

4. *Stormwater calculations*. Calculations demonstrating the following data shall be provided, according to the method established by the Engineering Division:

a. Drainage maps that show the site, land that drains onto the site, and land that the site drains onto for existing and proposed conditions. Delineated drainage areas for ponds, wetlands, or other relevant waters should be indicated on these maps;

b. A stormwater model conforming to Engineering Division standards that includes drainage areas, cover types, pond and wetland sizes, pond and wetland outlets, and natural or piped conveyance systems;

c. Peak runoff rates from the site before and after development demonstrating that the proposed conditions conform to the policies outlined in the city's comprehensive water resources management plan;

d. Volume of runoff from the site before and after development;

e. National urban runoff program ("NURP") volume below and normal outlet required and provided in each pond;

f. Infiltration calculations for proposed conditions; and

g. A narrative summarizing the calculations and demonstrating that proposed drainage alterations do not unreasonably burden upstream or downstream land.

5. *Solid borings*. If requested by the Public Works Director; and

6. *Fees*. All applications for stormwater management plan approval shall be accompanied by a processing and approval fee as set by the most recent edition of the city's adopted fee schedule.

(B) *Stormwater management plan review procedure*.

(1) *Process*. Stormwater management plans meeting the requirements of this chapter shall be submitted to the Engineering Division of the city's Public Works Department for the Public Works Director's review and approval. The Public Works Director shall recommend approval, approval with conditions, or denial of the stormwater management plan to the Planning Commission. Following Planning Commission review, the stormwater management plan shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(2) *Duration*. Approval of a stormwater management plan submitted under the provisions of this chapter shall expire 2 years after the date of approval by the City Council unless construction has commenced in accordance with the plan; however, if prior to the expiration of the approval, the applicant makes a written request to the Public Works Director for an extension of time to commence construction setting forth the reasons for the requested extension, the City Council may grant 1 extension of not greater than 1 single year.

(3) *Revisions*. A stormwater management plan may be revised. All revised plans must contain all information required by this chapter and must be reviewed and approved by the Public Works Director.

(4) *Conditions*. A stormwater management plan may be approved by the City Council subject to compliance with conditions that are necessary to ensure that the requirements contained in this chapter are met. Such conditions may, among other matters, limit the size, kind, or character of the proposed development; require the construction of structures, drainage facilities, storage basins, and other facilities; require replacement of vegetation; establish required monitoring procedures; require that the work be staged over time; require alteration of the site's design to ensure buffering; or require the conveyance to the city or other public entity of certain lands or interests therein.

(5) *Approval*. Upon approval of the stormwater management plan by the City Council, the applicant shall enter into an agreement with the city to ensure that any required improvements are constructed, any required easements are granted or dedicated, and that there is compliance with any conditions imposed by the City Council. The agreement shall guarantee completion and compliance with the conditions within a specific time, which time may be extended by the City Council. The agreement shall be in a form acceptable to the city.

(6) *Financial guarantee*. Upon approval of the stormwater management plan by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125% of the amount of the established cost of complying with the stormwater management plan. This financial guarantee shall be in a form acceptable to the city and may be incorporated into the financial guarantee provided for grading activities or the financial guarantee provided for street and utility activities.

(C) *Stormwater management plan approval and implementation standards*.

(1) *Compliance with standards*. No stormwater management plan which fails to meet the standards contained in this subchapter shall be approved by the City Council.

(2) *Adoption of design standards*. The city adopts the State Pollution Control Agency publication *Protecting Water Quality in Urban Areas* as its stormwater runoff design standards.

(3) *Site de-watering*. Water pumped from a site may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

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

(5) *NPDES permit*. Any applicant required to obtain a national pollutant discharge elimination system (NPDES) general stormwater permit from the State Pollution Control Agency shall, prior to the start of construction, submit written verification of such permit to the city.

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

(7) *Drain inlet protection*. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence, or equivalent barrier meeting accepted design criteria, standards, and specifications set forth in the State Pollution Control Agency publication *Protecting Water Quality in Urban Areas* and amendments to the publication.

(8) *Stormwater management requirements for permanent facilities*.

(a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to meet discharge rate criteria outlined in the city's comprehensive water resources management plan. No private stormwater facilities will be approved by the city unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance, and intervals of the maintenance. In the alternative, or in partial fulfillment of this requirement and upon approval of the Public Works Director, an applicant may make an in-kind or monetary contribution to the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and

development activities undertaken by 1 or more persons, including the applicant.

(b) The applicant shall reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales, and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

(c) The following stormwater management practices shall be investigated by the applicant in developing a stormwater management plan in the following descending order of preference, and the results of that investigation shall be provided to the city in written form as a part of the application:

1. Natural infiltration of precipitation on-site;

2. Flow attenuation by use of open vegetated swales and natural depressions;

3. Stormwater retention facilities; and

4. Stormwater detention facilities.

(d) A combination of stormwater management practices may be used to achieve the applicable minimum control requirements specified in this chapter. Justification shall be provided by the applicant for the method selected.

(e) 1. A vegetative buffer shall be required for proposed open channel watercourses that drain 50 acres or more. All provisions in this chapter relating to wetland buffers shall also apply to watercourse buffers.

2. The following additional provisions shall also apply.

a. Watercourses shall have a wetland management class of "low" as outlined in this chapter to determine the required area and minimum width of the watercourse buffer.

b. The required area of the buffer shall be calculated using the average buffer width as measured from the ordinary high water level (OHWL). If the OHWL has not been established, the normal water level may be used. If the normal water level is used, the applicant shall provide documentation prepared by an engineer defining the normal water level of the watercourse.

c. Buffers for watercourses are not required for those watercourses that require mowing to maintain their designed hydraulic capacity, as determined by the Public Works Director.

d. Alterations to facilitate erosion control improvements to stabilize the watercourse, including the use of hard-armoring such as riprap is allowed in watercourse buffers with an approved grading permit for the activities. Equivalent water quality treatment shall be provided for buffer areas impacted by these activities.

(9) *Pond design standards*. Stormwater detention facilities constructed in the city shall be designed according to standards established by the Engineering Division, and shall contain, at a minimum, the following design factors:

(a) A permanent pool (dead storage) volume below the principal spillway (normal outlet) which shall be greater than or equal to the runoff from a 2-1/2 inch rainfall over the entire contributing drainage area assuming full development;

(b) A permanent pool average depth (basin volume/basin area) of 4 to 10 feet;

(c) An emergency overflow (emergency outlet) adequate to control the 1% frequency/critical duration rainfall event;

(d) Basin side slopes below the 100-year high water level should be no steeper than 4:1, and preferable flatter. A basin shelf with a minimum width of 10 feet and 1 foot deep below the normal water level is recommended to enhance wildlife habitat, reduce potential safety hazards, and improve access for long-term maintenance;

(e) To prevent short-circuiting, the distance between major inlets and the normal outlet shall be maximized;

(f) A flood pool (live storage) volume above the principal spillway shall be adequate so that the peak discharge rates meet the requirements of the city's comprehensive water resources management plan;

(g) Pond outlets may not be smaller than the minimum size indicated in the city's comprehensive water resources management plan;

(h) Consideration for aesthetics and wildlife habitat should be included in the design of the pond;

(i) A skimming device must be provided to deter floatable pollutants from discharging out of pond;

(j) Design of stormwater facilities shall accommodate the 100-year critical event (100- year, 24-hour storm event or 10-day snowmelt event). This includes lakes, ponds, and their outlets; and

(k) Pond normal water level elevations shall be established above the ordinary high water level of adjacent public waters, except where topography of the site, floodplain mitigation activities, or other design considerations are determined to be unfavorable for these conditions to occur. This determination shall be performed by the applicant's engineer and approved by the Public Works Director.

(10) *Infiltration requirements*. Best management practices to manage infiltration will be required to the maximum extent practical. ***MAXIMUM EXTENT PRACTICAL*** shall be defined as the infiltration of runoff from a 100-year, 24-hour rainfall event within 72 hours.

(a) The maximum extent practical required may be less if the Public Works Director determines that 1 or more of the following conditions apply. If 1 or more of the following conditions apply, the Public Works Director shall quantify the amount of infiltration that will be deemed as the maximum extent practical for the site:

1. The infiltration characteristics of soils on the site are not favorable for the infiltration of stormwater;

2. The site's drainage course is to regional infiltration or detention facilities controlled by the city that reduce runoff volumes;

3. The development of the site does not increase the site's impervious areas; or

4. Other site conditions that make the infiltration of stormwater impractical as determined by the Public Works Director.

(b) Infiltration will be discouraged or not permitted in the following situations:

1. When documented past, present, or anticipated future-land uses have resulted in or may result in contamination coming in contact with stormwater runoff;

2. When the areas for infiltration available on the site have less than a 3-foot separation from groundwater elevations;

3. Stormwater runoff shall be treated in a stormwater pond or by other means prior to entering an infiltration facility; or

4. The minimum infiltration requirements for any region of the city will be the requirements of the watershed district or watershed management organization policies that govern that region. These policies may be met through the use of regional or downstream systems prior to discharge of runoff to waters of the state.

(11) *Inspection and maintenance*. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. It shall be the responsibility of the applicant to provide or obtain any necessary easements or other property interests in order to allow the city access to the stormwater management facilities for inspection and maintenance purposes.

(12) *Facilities*. Stormwater and infiltration facilities must be located at least 50 feet away from the top of a bluff.

(13) *Watershed management plans/groundwater management plans*. Stormwater management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared by the State Board of Water and Soil Resources.

(14) *Easement*. If the stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests to permit the flow of water across the property.

(15) *Low-floor/building opening elevations*.

(a) Any new development or redevelopment shall maintain a minimum building opening elevation of at least 3 feet above the anticipated 100-year high water elevation as a standard practice; however, if the applicant demonstrates that this requirement would be a hardship, the standard may be reduced to 2 feet if all of the following can be demonstrated:

1. Within the 2 foot freeboard area, stormwater storage is available which is equal to or exceeds 50% of the stormwater storage currently available in the basin below the 100-year elevation;

2. A 25% obstruction of the basin outlet over a 24-hour period would not result in more than 1 foot of additional bounce in the basin; and

3. An adequate overflow route from the basin is available that will provide 1 foot of freeboard for the proposed low building

opening.

(b) Basement floor elevations must be set to an elevation that meets all of the following criteria:

1. The lowest floor elevation must be at least 4 feet above the currently observed groundwater elevations in the area;

2. The lowest floor elevation must be at least 2 feet above the elevation of any known historic high groundwater elevations for the area. Information on historic high groundwater elevations can be derived from any reasonable sources including piezometer data, soil boring data, percolation testing logs, and the like; and

3. The lowest floor elevation must be at least 2 feet above the 100-year high surface water elevation for the area unless it can be demonstrated that this standard creates a hardship, if the 2- foot standard is determined by the City Council to constitute a hardship, the standard shall be at least 1 foot above the highest anticipated groundwater elevation resulting from a 100-year critical duration rainfall event. The impact of high surface water elevations on groundwater elevations in the vicinity of the structure should take into consideration the site's distance from the floodplain area, the soils, the normal water elevation of surface depressions in the area, the static groundwater table, and historic water elevations in the area. This information shall be provided by a registered engineer or soil scientist.

(16) *Impervious surface coverage*. The impervious surface coverage of each lot must not exceed the impervious surface coverage allowed under Ch. 151.

(17) *Accommodation of discharge rates*. Storm sewers shall be designed to accommodate discharge rates associated with a 10-year, 24-hour rainfall event.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008)

§ 54.16 STORMWATER AND URBAN RUNOFF POLLUTION CONTROL.

(A) *Illegal disposal, discharges, and connections*.

(1) No person shall intentionally dispose of leaves, grass clippings, dirt, gravel, or other landscape debris into a street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, or storm drain.

(2) No person shall cause any illicit discharge to enter the city stormwater system. For the purpose of this chapter, ***ILLICIT DISCHARGE*** is as defined in the city's stormwater pollution prevention plan (SWPPP) completed for the city's municipal separate storm sewer system (MS4) permit.

(3) No person shall use any illicit connection to intentionally convey non-stormwater to the city stormwater system.

(4) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets, or a storm drain system may occur.

(B) *Maintenance of stormwater facilities*.

(1) All private stormwater facilities shall be maintained by the property owner in a condition consistent with the performance standards under which they were originally designed. All settled materials from ponds, sumps, grit chambers, and other devices, including settled solids, shall be removed by the property owner and properly disposed of at least once every five years.

(2) One- to five-year waivers from this requirement may be granted by the Public Works Director when the property owner presents evidence that the facility has additional capacity to remove settled solids in accordance with the original design capacity.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008) Penalty, see § 54.99

§ 54.17 LAWN FERTILIZATION RESTRICTIONS.

(A) *Timing of fertilizer application*. No lawn fertilizer shall be applied when the ground is frozen and in no event during the period of November 15 through April 1 of the succeeding year.

(B) *Impervious surfaces*. Lawn fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surface. Any lawn fertilizer applied, spilled, or deposited, either intentionally or accidentally, on an impervious surface shall be immediately and completely removed.

(C) *Buffer zones*. No lawn fertilizer shall be applied within any established wetland buffer zone or within 20 feet of the edge of any wetland, pond, river, creek, or lake.

(D) *Lawn fertilizer content and application rate*. No lawn fertilizer containing any amount of phosphorus or other compounds containing phosphorus, such as phosphate shall be applied to any turf within the city except when the following conditions apply:

(1) Newly established turf areas for the turf's first growing season; or

(2) In turf areas in which a soil test confirms that the turf area is below phosphorus levels established by the University of Minnesota Extension Service. The fertilizer to be applied shall not contain an amount of phosphorus that exceeds the amount recommended in the soil test evaluation.

(E) *Notice requirement*. Retail businesses selling lawn fertilizer containing phosphorus shall post a notice in a conspicuous location near the law fertilizer notifying customers of the limitation on the use of lawn fertilizer containing phosphorous contained in this subchapter.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008)

WETLAND MANAGEMENT

§ 54.30 AREAS AFFECTED.

This subchapter applies to all parcels containing wetlands as defined by the *1987 Corp of Engineers Wetlands Delineation Manual*. This subchapter also applies to any parcel located near a wetland that would be required by this chapter to have a wetland buffer or wetland buffer setback.

(2013 Code, § 16.12) (Ord. 807, passed 9-25-2008)

§ 54.31 WETLAND ASSESSMENT AND DELINEATION.

(A) A wetland assessment and delineation shall be submitted to the Engineering Division of the city's Public Works Department when required by this chapter for review. The Public Works Director shall recommend approval, approval with conditions, or denial of the wetland assessment and delineation to the Planning Commission. Following Planning Commission review, the wetland assessment and delineation shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(B) The wetland assessment report and delineation must be performed and prepared by a qualified wetland specialist. Wetland delineation in the report shall be shown on a scaled drawing that also shows the location of existing and proposed property lines, buildings, and other topographic features of the site. For each wetland delineated in the report, a wetland management class as defined by the State Routine Assessment Method (MNRAM) for evaluating wetland functions - Version 3.1 or later version - must be assigned.

(2013 Code, § 16.12) (Ord. 807, passed 9-25-2008)

§ 54.32 WETLAND BUFFERS.

For any parcel created or redeveloped, a wetland buffer as defined in this subchapter is required.

(A) *Required wetland buffer dimensions*.

(1) Wetland buffer dimensions will be based on the wetland's management class as defined by MNRAM.

	Wetland Management Class	***Average Required Buffer Width***	***Minimum Required Buffer Width***

	(MNRAM)	*(feet)*	*(feet)*
A	Exceptional	65	25
B	High	50	25
C	Medium	35	25
C	Low	25	25

(2) The required area of the wetland buffer shall be calculated using the average buffer width as measured from the delineated wetland edge.

(B) *Required wetland buffer vegetation*. Vegetation within a wetland buffer shall be established and maintained as follows.

(1) The first 25 feet of the wetland buffer as measured from the wetland delineation or public waters wetland ordinary high water level (OHWL) must not be disturbed during project construction (i.e. cleared or graded), with the exception of temporary disturbances for public roads and utility construction. This area must be protected from disturbance with temporary fencing prior to construction. If it is necessary to establish acceptable vegetation within the area so that it is in compliance with the vegetation requirements of this subchapter, vegetation may be removed and replaced, and site soils preparation work may be performed within this area.

(2) Where acceptable natural vegetation exists within the wetland buffer, the retention of such vegetation in an undisturbed state is required unless the applicant receives approval from the Public Works Director to replace such vegetation. A wetland buffer is considered to have acceptable natural vegetation if it has a continuous, dense layer of perennial grasses, or an overstory of trees or shrubs that have been uncultivated or unbroken for at least five consecutive years. The city may determine existing vegetation to be unacceptable if the wetland buffer has undesirable characteristics such as noxious or invasive plant species or topography that channelizes the flow of runoff.

(3) (a) In cases where the wetland buffer does not contain vegetation or has been cultivated or otherwise disturbed within five years of the application, the wetland buffer area must be replanted with native seed mix approved by the Public Works Director and maintained until it is established.

(b) The proposed types of wetland buffer plantings, proposed maintenance, and monitoring activities and schedule must be identified on the application. Any vegetation planted within the wetland buffer are independent of any landscaping that may be required elsewhere on the property by the city.

(c) During the first 2 full growing seasons, the owner must replant any wetland buffer vegetation that does not survive. After this time, the owner shall remain responsible for re-seeding or replanting vegetation within the wetland buffer if it changes at any time due to human intervention or activities.

(C) *Wetland buffer easements and markers*. When a wetland buffer is required pursuant to this subchapter, the applicant shall prior to issuance of any building permits by the city:

(1) Submit to the city for its approval a conservation easement in favor of the city for protection of the wetland buffers and wetlands on the property, or include the wetland buffer and wetlands in an outlot dedicated to the city as part of the plat. The conservation easement shall legally describe the boundaries of the wetland or public waters wetland and the wetland buffer and identify the marker locations;

(2) Record the conservation easement or final plat with the county and submit evidence thereof to the city;

(3) Wetland buffers shall be marked to clearly designate their boundaries. At least 1 marker shall be required on each lot. There shall be at least 1 marker every 200 feet along the edge of the wetland buffer; and

(4) A marker shall consist of a post and a sign indicating the presence of a wetland buffer. The applicant will be required to furnish and install 4 by 4 inch sign posts to a height of 5 feet above finished grade. The city will furnish and install the signs. If the applicant does not install the posts, the city will furnish and install them. Fees incurred by the city for post furnishing and installation will be paid by the applicant.

(D) *Wetland buffer alterations*.

(1) Alterations including building or placement of structures, storage of materials, paving, mowing, plowing, introduction of

noxious vegetation, cutting for non-management purposes, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer application, are prohibited within the wetland buffer.

(2) The following activities shall be permitted in the wetland buffer and shall not constitute prohibited alterations:

(a) Removal of noxious vegetation such as, but not limited to, European buckthorn, purple loosestrife, and reed canary grass;

(b) Installation of new plantings that enhance the natural vegetation;

(c) Selective clearing or pruning of trees or vegetation that are dead, diseased, or pose similar hazards;

(d) Use and maintenance of 1 unimproved access strip through the wetland buffer for recreational access to a watercourse, where permitted. The strip shall be no greater than 20 feet in width;

(e) Construction, maintenance, repair, reconstruction, or replacement of existing and future public roads, utilities, or drainage systems within a wetland buffer, so long as any adverse impacts of the construction and installation on the function of the wetland buffer have been avoided or minimized to the extent practical and the activity has been approved by the city;

(f) Construction of individual sewage treatment systems (ISTS) so long as the vegetation growing on the system is maintained in accordance with this subchapter, the area for the ISTS is not credited as wetland buffer area, and the edge of the ISTS is located at least 35 feet from the delineated wetland edge;

(g) Clearing, grading, and seeding if part of a wetland replacement plan approved by the city;

(h) Maintenance, repair, or replacement of trails; and

(i) Placement or maintenance of ponds or other stormwater treatment facilities, so long as the area of the pond is not credited as wetland buffer area and the embankment of the pond is located at least 35 feet from the delineated wetland edge.

(E) *Exceptions*.

(1) Wetland buffers and structure setbacks are not requited for any residentially zoned lot of record as of the effective date of this chapter.

(2) Wetland buffers and structure setbacks are not required for any wetland that qualifies for a de minimus exemption under the Wetland Conservation Act.

(3) Wetland buffers and structure setbacks are not required for any wetland qualifying for an incidental wetland exemption under the Wetland Conservation Act.

(2013 Code, § 16.12)

§ 54.33 STRUCTURE SETBACKS.

(A) Parcels that are newly created or redeveloped after the effective date of this chapter are required to have a structure setback from the wetland buffer for all new structures.

(B) The structure setback shall be measured from outer edge of the wetland buffer.

(C) For residential parcels, a 30-foot front and rear yard structure setback and a 10-foot side yard structure setback is required from the wetland buffer.

(D) All nonresidential parcels shall be required to provide a 10-foot structure setback for front, rear and side yards.

(2013 Code, § 16.12) (Ord. 807, passed 9-25-2008)

EROSION AND SEDIMENT CONTROL

§ 54.45 EROSION CONTROL PLAN.

(A) An erosion control plan shall be submitted to the Engineering Division of the city's Public Works Department when required by

this chapter along with a grading permit application. All applications for a grading permit shall be accompanied by a processing and approval fee as set by the city fee schedule.

(B) The erosion control plan shall contain all of the following with respect to conditions existing on site during construction and after final structures and improvements have been completed.

(1) A description of and specifications for sediment retention and settling devices;

(2) A description of, specifications for, and detail plates for surface runoff and erosion control devices;

(3) A description of vegetative measures;

(4) A detailed timetable for restoring all disturbed areas;

(5) A graphic representation of the location of all specified erosion and sediment control devices;

(6) An implementation schedule for installing and subsequently removing devices described above;

(7) A maintenance schedule for all sediment and erosion control devices specified;

(8) An estimate of the costs to implement all final and temporary erosion and sediment control measures;

(9) An information sheet on the parties responsible for constructing and maintaining the erosion control measures as shown on the erosion control plan. The information sheet should contain the phone numbers and addresses of at least 2 persons and indicate how they can be contacted at all times (days, nights, weekends, and the like) regarding repairing and maintaining the erosion control measures;

(10) The erosion control plan must contain details to specify which erosion and sediment control facilities are permanent and which are temporary; and

(11) If required, a nationwide pollutant discharge elimination system (NPDES) general stormwater permit must be obtained from the State Pollution Control Agency prior to commencing construction activities. The associated stormwater pollution prevention plan (SWPPP) should be included in the erosion control plan and approved by the Public Works Director prior to construction. A copy of the NPDES permit must be provided to the city prior to construction.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.46 PROCESS.

Erosion control plans meeting the requirements of this chapter shall be submitted to the Engineering Division of the city's Public Works Department for the Public Works Director's review and approval. The Public Works Director shall recommend approval, approval with conditions, or denial of the erosion control plan to the Planning Commission. Following Planning Commission review, the erosion control plan shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.47 IMPLEMENTATION OF AN EROSION CONTROL PLAN.

Prior to the start of any earthwork activities, the permittee must have in place and functional the erosion controls as outlined on the approved erosion control plan. Additional erosion control measures may be required as directed by the Public Works Director.

(A) No earth moving activities shall commence until the erosion controls have been field inspected and approved by the Public Works Director.

(B) The permittee must maintain the erosion control on the site to the process. If the erosion control is not being maintained to the Director's satisfaction, the city may perform remedial work on the site as outlined in this subchapter.

(C) All erosion control systems must be maintained by the permittee in an acceptable condition until turf is established or structural surfaces are constructed to protect the soil from erosion.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.48 FINANCIAL SECURITY.

(A) Upon approval of the erosion control plan by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125% of the amount of the established cost of complying with the erosion control plan. This financial guarantee shall be in a form acceptable to the city and may be incorporated into the financial guarantee required for grading activities.

(B) The city may draw on the letter of credit or cash escrow after providing the permittee with at least five business days' notice.

(C) The city may act against the financial security if any of the conditions listed below exist:

(1) The permittee ceases land-disturbing activities or filling and abandons the work site prior to completion of the grading plan;

(2) The permittee fails to conform to the approved grading or erosion control plan;

(3) The techniques utilized under the erosion control plan fail within 1 year of installation; or

(4) The Public Works Director has determined that additional action on the site is necessary to prevent excessive erosion from occurring.

(D) The city may use the funds from the financial security to reimburse itself for any remedial work undertaken by the city or its contractor, and for any administrative costs incurred in the process of performing the remedial work including, but not limited to, staff time, and attorney's fees.

(E) The financial security deposited with the city for faithful performance of the grading and erosion control work shall be released 1 year after the ground cover and other erosion control measures have been installed. All temporary erosion control measures, such as silt fences and hay bales, must be removed from the site prior to the city releasing the financial security.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.49 INSPECTION OF EROSION CONTROL PLAN.

The city will make periodic inspections of the site to ensure compliance with the erosion control plan.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.50 APPLICATION REVIEW AND INSPECTION FEES.

(A) The city shall charge an application review fee for the review of the erosion control permit application and the erosion control plan. As part of this review, the city will review the permittee's as-built survey submitted after the completion of grading activities to ensure that it conforms to the overall erosion control plan for the area. The application fee shall be set by the city fee schedule.

(B) (1) An inspection fee will be charged for any inspections of the site by the city that are needed to review corrective erosion control work or to follow up on previously incomplete work. This inspection fee will be deducted from the financial security.

(2) The amount will be set by the city fee schedule. If this fee is not paid within 45 days, the fee may be taken from the financial security posted by the applicant.

(2013 Code, § 16.13)

§ 54.51 NOTIFICATION OF FAILURE OF EROSION CONTROL PLAN.

The city shall notify the permittee of the failure of the erosion control measures that have been constructed. The notification will be by phone or fax to the parties listed on the information sheet required by this subchapter. The city, at its discretion, may begin remedial work within 48 hours after notification has been provided.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.52 EROSION OFF-SITE.

If erosion breaches the perimeter of the site, the permittee shall immediately develop a cleanup and restoration plan, obtain a right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the Public Works Director may more than 7 calendar days pass without any corrective action being taken. If at the discretion of the city, the permittee does not repair the damage caused by the erosion, the city may perform the remedial work required, after notice is provided to the permittee.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.53 EROSION INTO STREETS, WETLANDS, OR WATER BODIES.

If eroded soils enter, or entrance appears imminent into streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The permittee shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations. If, at the discretion of the city, the permittee does not repair the erosion, the city may perform the remedial work required, after notice is provided to the permittee.

(2013 Code, § 16.13)

§ 54.54 FAILURE TO DO CORRECTIVE WORK.

When a permittee fails to conform to any provision of this subchapter within the time stipulated, the city may take the following actions:

(A) Withhold the scheduling of inspections;

(B) Withhold the issuance of a certificate of occupancy;

(C) Issue a stop-work order;

(D) Direct the correction of the deficiency by city forces or separate contract. The issuance of an erosion control permit constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies with respect to erosion control. All costs incurred by the city in correcting erosion control deficiencies, including administrative expenses, shall be reimbursed by the permittee. If payment is not made within 30 days after an invoice is issued, the city may draw from the financial security, if the financial security is of an insufficient amount, the city may assess the remaining amount against the property. As a condition of the permit, the owner shall be required to waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of M.S. § 429.081, as it may be amended from time to time, to challenge the amount or validity of the assessment.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.99 PENALTY.

(A) A person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties imposed by state statutes for misdemeanor offenses.

(2013 Code, § 16.13)

(B) For the first 12 months following the effective date of §§ 54.15 through 54.17, no penalty shall attach to a violation of §§ 54.15 through 54.17. Thereafter, a person violating any provision of §§ 54.15 through 54.17 shall be guilty of a petty misdemeanor and upon conviction shall be subject to the penalties imposed by state statutes for petty misdemeanor offenses.

(2013 Code, § 16.11)

(Ord. 807, passed 9-25-2008)

Chapter

CHAPTER 70: TRAFFIC RULES

Section

Cross-reference:

Traffic Schedules, see Ch. 73

§ 70.01 M.S. CH. 168, 169, AND 171 ADOPTED BY REFERENCE.

Except as otherwise provided in this chapter or in Chs. 71 or 90, the regulatory and procedural provisions of M.S. Ch. 168, Ch. 169, as they may be amended from time to time, (and commonly referred to as the Highway Traffic Regulation Act), Ch. 171, are hereby adopted and incorporated as part of this code of ordinances as fully as if set out at length herein, including the penalty provisions thereof.

(2013 Code, § 8.01) (Ord. 278, passed 12-1-1989; Ord. 408, passed 3-7-1995)

§ 70.02 TRUCK ROUTE.

It is unlawful for any person to drive a tractor, agricultural implement truck (other than a pick-up truck of 1/2-ton capacity or less), truck-trailer, tractor-trailer or truck-tractor, automobile trailer, or automobile to which a trailer is attached, in through traffic, or upon any street except those which have been designated and sign-posted as truck routes. For the purpose of this chapter, ***THROUGH TRAFFIC*** means originating without the city and with a destination without the city, as distinguished from ***LOCAL TRAFFIC*** which means traffic either originating or having a destination within the city.

(2013 Code, § 8.02) (Ord. 1, passed 4-1-1978) Penalty, see § 70.99

§ 70.03 EXHIBITION DRIVING.

(A) *Prima facie evidence*. It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing, or skidding, or, as to 2-wheeled or 3-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

(B) *Unlawful act*. It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this section shall not apply to driving on a racetrack. For purposes of this section, a ***RACETRACK*** means any track or premises whereon motorized vehicles, horses, dogs, or other animals or fowl legally compete in a race or timed contest for an audience, the members of which have directly or indirectly paid a consideration for admission.

(2013 Code, § 8.03) (Ord. 1, passed 4-1-1978; Ord. 126, passed 8-4-1983) Penalty, see § 70.99

§ 70.04 U-TURNS.

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

(2013 Code, § 8.04) (Ord. 1, passed 4-1-1978) Penalty, see § 70.99

§ 70.05 DRIVING THROUGH PRIVATE PROPERTY TO AVOID TRAFFIC SIGNAL.

It is unlawful for any person to avoid obedience to any traffic-control device by driving upon or through any private property.

(2013 Code, § 8.05) (Ord. 1, passed 4-1-1978) Penalty, see § 70.99

§ 70.06 NON-MOTORIZED WHEELED TRANSFORMATION.

(A) *Application*. The provisions of this section shall apply to all non-motorized wheeled transportation which travels at a pace faster than a walk. This includes, but is not limited to, bicycles, rollerblades, rollerskates, skateboards, and scooters. For purposes of this section, a person using such non-motorized wheeled transportation shall be referred to as being "on wheels".

(B) *Traffic laws apply*. Every person on wheels on a roadway or any path set aside for the exclusive use of non-motorized wheeled transportation shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this chapter, except as to those provisions of this chapter which by their nature can have no application.

(C) *Manner and number riding*.

(1) It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.

(2) No non-motorized wheeled transportation shall be used to carry more persons at 1 time than the number for which it is designed and equipped. Any baby seat shall be equipped with a harness to hold the child securely in the seat and provide protection against the child's feet hitting the spokes of a wheel.

(D) *Hitching rides*. It is unlawful for any person on wheels to attach the same or themselves to any vehicle upon a roadway.

(E) *Where to ride*.

(1) Every person on wheels upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Persons on wheels upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of non-motorized wheeled transportation.

(3) Whenever a path for non-motorized wheeled transportation has been provided adjacent to a roadway, a person on wheels shall use such path and shall not use the roadway.

(4) Persons on wheels are prohibited on private property without the express permission of the property owner.

(F) *Right-of-way*. Whenever a person on wheels is on a sidewalk or private property, such person shall yield the right-of-way to any pedestrian.

(G) *Carrying articles*. It is unlawful for any person operating a bicycle to carry any package, bundle, or article which prevents the driver from keeping at least 1 hand upon the handlebars.

(H) *Lighting and brake equipment.*

(1) *Bicycle lights and reflectors*. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. In addition, each bicycle shall have reflective materials on each side of each pedal clearly visible from the front or the rear.

(2) *Reflective clothing*. Between sunset and sunrise, each person on wheels shall wear clothing with a minimum of 20 square inches of reflective surfaces on the front and on the back, which is visible for a distance of 600 feet. Persons on bicycles with lights and reflectors as specified above shall not be required to wear reflective clothing. All reflective materials shall meet the requirements prescribed by the Commissioner of Public Safety.

(3) *Brakes*. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(I) *Sale of bicycles*. It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed above.

(2013 Code, § 8.06) (Ord. 1, passed 4-1-1978; Ord. 396, passed 1-12-1995) Penalty, see § 70.99

§ 70.07 EMERGENCY VEHICLE PREEMPTION SYSTEM.

(A) *Purpose*.

(1) The purpose for using the Emergency Vehicle Preemption System (EVPS) is to allow emergency vehicles to perform emergency services in a safe and timely manner by temporarily controlling motorized vehicle traffic flow at signalized intersections.

(2) The City Council deems it advisable to formulate policies and procedures for the use of the EVPS which are to be followed by drivers of all emergency vehicles equipped with EVPS emitters so that both pedestrians and drivers of motorized vehicles have adequate warning that emergency vehicles are changing normal traffic-control timing at signalized intersections.

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

EMERGENCY VEHICLE. A vehicle equipped and identified according to law and operated by the City Police or Fire Department or any other vehicle so designated by the state statute.

EMERGENCY VEHICLE PREEMPTION SYSTEM (EVPS). A traffic-control system designated for use by emergency vehicles to improve traffic movement by temporarily controlling signalized intersections. The EVPS is comprised of 4 separate components: an emitter; a detector; an indicator; and a phase selector. The emitter (a high intensity light source) is attached to the emergency vehicle and functions like a strobe light, pulsating at a frequency in excess of 10"beats" per second. As an emergency vehicle approaches the intersections, this pulsating light is received by a detector that is located at or near the traffic signal. The detector relays the coded message to the phase selector, located in the traffic light control box, which then either holds the existing green light in favor of the approaching emergency vehicle or accelerates the normal cycle of a signal change to provide green by the time the vehicle reaches the intersection. The indicator is a light source located near the detector that is directed toward the oncoming emergency vehicle to indicate to the driver whether or not the traffic light has been preempted in their favor.

FIRE CHIEF. The Fire Chief of the city or his or her designee.

SYSTEM CONTROL OFFICER. An individual, designated by the City Council, to be responsible for the oversight of the EVPS.

(C) *Conditions for using the Emergency Vehicle Preemption System (EVPS)*.

(1) *Fire Department*. City-owned Fire Department vehicles may use the EVPS while on emergency responses only. Conditions for the use of EVPS hereby become a part of the Fire Department standard operating procedures.

(2) *Police Department*. City-owned Police Department vehicles may use the EVPS while on emergency responses only. Conditions for the use EVPS of hereby become a part of the Police Department standard operating procedures. May activate in a non-emergency situation to enhance the flow of traffic.

(3) *City or county maintenance personnel.* The county or city maintenance personnel, or their contractors under written agreement, may activate the EVPS only when testing or repairing the system. Sirens and flashing red lights need not be used except when the test vehicle must exceed the posted speed limits. In such instances, the test must be pre-approved and coordinated through the Fire Chief.

(4) *Emergency vehicles not owned or operated by the city*. The use of EVPS within the city by non-city emergency vehicles is allowed if the emergency vehicle is one that is recognized by the city in which it is based or which receives approval as in division (C)(3) above. The participating organization or unit of government shall follow all procedures prescribed by the city in utilizing the EVPS.

(5) *Fire Chief designated as the System Control Officer*. Requests for use of the EVPS by other organizations or governmental units and the conditions required for such use shall be approved yearly by the System Control Officer.

(6) *Prohibitions*. Except as authorized in this section, it is unlawful for any person:

(1) To activate the EVPS;

(2) To use an EVPS emitter; or

(3) To operate any motor vehicle containing an EVPS emitter.

(2013 Code, § 8.07) (Ord. 533, passed 12-17-1998) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(1) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property the person shall be punished as for a misdemeanor; where the person stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, the person shall be punished as for a misdemeanor.

(2) *Petty misdemeanor*. As to any violations not constituting a misdemeanor under the provisions of division (A)(1) above, the person shall be punished as for a petty misdemeanor.

(3) *Adopted by reference*. As to any violation of a provision adopted by reference, the person shall be punished as specified in such provision, so adopted.

(4) *Impoundment*. Any vehicle used in or during the violation of any provision of this chapter may be impounded for 60 days in addition to any other penalty provided in this chapter.

(2013 Code, § 8.99)

(B) Any violation of § 70.07 is a misdemeanor.

(2013 Code, § 8.07)

(Ord. 1, passed 4-1-1978; Ord. 141, passed 1-26-1984; Ord. 337, passed 7-23-1992; Ord. 533, passed 12-17-1998; Ord. 589, passed 1-25-2001)

CHAPTER 71: PARKING REGULATIONS

Section

Cross-reference:

Parking Schedules, see Ch. 74

§ 71.01 PRESUMPTION.

As to any vehicle parking in violation of Ch. 70, this chapter, and Ch. 90, when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner.

(2013 Code, § 9.01) (Ord. 1, passed 4-1-1978)

§ 71.02 GENERAL PARKING PROHIBITIONS.

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

(A) On a sidewalk;

(B) In front of a public or private driveway;

(C) Within an intersection;

(D) Within 10 feet of a fire hydrant;

(E) On a crosswalk;

(F) Within 20 feet of a crosswalk at any intersection;

(G) In a sign-posted fire lane;

(H) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

(I) Within 50 feet of the nearest rail of a railroad crossing except in a parking lot;

(J) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign-posted;

(K) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;

(L) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(M) Upon any bridge or other elevated structure upon a street;

(N) At any place where official signs prohibit or restrict stopping, parking, or both;

(O) In any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises;

(P) On any boulevard which has been curbed; or

(Q) Within 20 feet of a mailbox during the hours of 8:00 a.m. to 5:00 p.m., Monday through Saturday.

(2013 Code, § 9.02) (Ord. 127, passed 8-4-1983; Ord. 681, passed 8-25-2003) Penalty, see § 71.99

§ 71.03 UNAUTHORIZED REMOVAL.

It is unlawful for any person to move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

(2013 Code, § 9.03) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.04 HOUSE TRAILER, MOBILE HOME, CAMPING TRAILER, AND BUS PARKING.

It is unlawful for any person to leave or park a house trailer, mobile home, camping trailer, bus, or other similar recreational vehicle on or within the limits of any street or right-of-way, except where signs are erected designating the place as a campsite, for more than 24 consecutive hours; provided, however, that during such 24-hour period, such vehicle shall not be occupied as living quarters.

(2013 Code, § 9.04) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.05 PARALLEL PARKING.

Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or both, each vehicle stopped or parked upon a 2-way road where there is an adjacent curb shall be stopped or parked with the right hand wheels of the vehicle parallel with, and within 12 inches of, the right hand curb, and, where painted markings appear on the curb or the street, such vehicle shall be within such markings, front, and rear; provided, that upon a 1-way roadway all vehicles shall be so parked, except that the left hand wheels of the vehicle may be parallel with and within 12 inches from the left hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such 1-way street; and it is unlawful to park in violation of this section.

(2013 Code, § 9.05) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.06 ANGLE PARKING.

Where angle parking has been established by Council resolution, and is allowed, as shown by curb marking or sign-posting, or both, each vehicle stopped or parked shall be at an angle of approximately 45 to 60 degrees with the front wheel touching the curb and within any parking lines painted on the curb or street; provided, that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of 1-way traffic; and it is unlawful to park in violation of this section.

(2013 Code, § 9.06) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.07 STREETS WITHOUT CURBS.

Upon streets not having a curb, each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street; and it is unlawful to park in violation of this section.

(2013 Code, § 9.07) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.08 PARKING HOURS.

(A) *Over 24 hours*. It is unlawful for any person to stop, park, or leave standing any vehicle upon any street for a continuous period in excess of 24 hours; provided, however, upon showing of undue hardship in individual cases, the Council may grant modification or exemption from the above upon notifying the City Engineer, the Street Department, and the Police Department.

(B) *Designated zones*. The Chief of Police may, when authorized by action of the Council, designate certain streets, blocks, or portions of streets or blocks as 5-minute, 10-minute, 15-minute, 30-minute, 1-hour, 2-hour, 4-hour, 6-hour, or 8-hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic.

(2013 Code, § 9.08) (Ord. 1, passed 4-1-1978; Ord. 107, passed 10-28-1982) Penalty, see § 71.99

§ 71.09 DISABLED PARKING.

Pursuant to the authority given to the city in M.S. § 626.862, as it may be amended from time to time, the city's Community Services Officers shall be empowered to enforce the parking restrictions of M. S. § 169.346, as it may be amended from time to time, relating to parking spaces for the physically disabled by issuing lawful citations to violators.

(2013 Code, § 9.09) (Ord. 762, passed 6-15-2006)

§ 71.10 TRUCK PARKING.

(A) *Public property*. It is unlawful to park a detached semi-trailer upon any street, municipally-owned parking lot, or other public property.

(B) *Residential district*. It is unlawful to park a semi-trailer, whether or not attached to a truck-tractor, within an area zoned as a residential district, except for the purpose of loading or unloading the same.

(C) *Loading zones and alleys*. Parking of commercial vehicles is permitted in duly designated and sign-posted loading zones, and in alleys, for a period of up to 20 minutes; provided, that such alley parking does not prevent the flow of traffic, all of which shall be for the purpose of access to abutting or adjacent property for loading or unloading.

(D) *Hardship*. Upon showing of undue hardship in individual cases the Council may grant modification or exemption from the above provisions and shall forthwith notify the City Engineer, the City Street Department, and the Police Department.

(2013 Code, § 9.30) (Ord. 1, passed 4-1-1978; Ord. 140, passed 12-29-1983) Penalty, see § 71.99

§ 71.11 LOADING ZONES.

The Council may, by resolution, establish loading zones to be used for the specific purpose of loading or unloading merchandise from a commercial vehicle or vehicle temporarily being utilized in the transport of merchandise. Such loading zones shall be installed by order of the City Administrator where in the judgment of the Council, a commercial loading zone is justified and duly sign-posted.

(2013 Code, § 9.31) (Ord. 1, passed 4-1-1978)

§ 71.12 PARKING RULES IN MUNICIPAL PARKING LOTS AND RAMPS.

In municipally-owned parking lots and ramps, the Council may limit the sizes and types of motor vehicles to be parked, hours of parking, and prescribed method of parking; provided, that such limitations and restrictions are sign-posted. It is unlawful to park or leave standing any vehicle backed into a parking place, or to drive in a direction opposite the flow of traffic marked by 1-way signs or arrows. It is also unlawful to park any vehicle in any municipally-owned parking lot or ramp contrary to the restrictions or limitations sign-posted without a permit in writing from the city.

(2013 Code, § 9.40) (Ord. 62, passed 6-18-1981) Penalty, see § 71.99

§ 71.13 IMPOUNDING AND REMOVING VEHICLES.

(A) When any police officer finds a vehicle standing upon a street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this chapter.

(B) When any police officer finds a vehicle unattended upon any street or municipally-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from such place of storage or safekeeping.

(2013 Code, § 9.41) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.14 UNATTENDED VEHICLE.

(A) *Engine running*. It is unlawful for any person to leave a motor vehicle unattended while the engine is running with the key in the ignition.

(B) *Key in ignition*. It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition.

(C) *Exception*. This section does not apply to police, fire, or other emergency vehicles.

(2013 Code, § 9.42) (Ord. 1, passed 4-1-1978; Ord. 726, passed 3-24-2005) Penalty, see § 71.99

§ 71.15 VEHICLE REPAIR ON STREET.

It is unlawful for any person to service, repair, assemble, or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs.

(2013 Code, § 9.43) (Ord. 1, passed 4-1-1978) Penalty, see § 71.99

§ 71.16 PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE.

It is unlawful for any person to park a vehicle on any street for the purpose of selling merchandise, or advertising any merchandise for sale or a forthcoming event.

(2013 Code, § 9.44) (Ord. 174, passed 6-27-1985) Penalty, see § 71.99

§ 71.17 INOPERABLE VEHICLES.

(A) Passenger vehicles and trucks in an inoperative state or without a current license plate registration, shall not be parked in residential districts for a period exceeding 7 days.

(B) ***INOPERATIVE*** means incapable of movement under its own power and in need of repairs.

(2013 Code, § 9.45) (Ord. 338, passed 8-6-1992)

§ 71.18 PARKING DURING MAINTENANCE, SNOWY WEATHER, AND IN THE CENTRAL BUSINESS DISTRICT.

(A) *During maintenance*. There shall be no parking on any city street, alley, or public parking lot when all or any of said street, alley, or public parking lot is designated and/or posted for maintenance work by proper city officials or employees.

(B) *Parking restrictions from November 1 through March 31*. From November 1 of each year through March 31 of the following year, no person may park or leave standing a vehicle on any public street between the hours of 2:00 a.m. and 6:00 a.m., on any day. This restriction does not apply to any public street located in the area described in division (G) below and Ch. 74, Schd. I.

(C) *Snow on public right-of-way*. No snow shall be removed from private property and subsequently deposited on public right-of-way such as, but not limited to, streets and alleys.

(D) *Hardship*. Upon showing of undue hardship in individual cases, the Council may grant modification or exemption from the above upon notifying the City Engineer, the Street Department, and the Police Department.

(E) *Unlawful act*. It is unlawful to park in violation of this section and Ch. 74, Schd. I(C).

(F) *Towing*. Persons in violation of the parking restrictions outlined in this section and Ch. 74 shall be tagged and subject to being towed at their own expense.

(G) *Parking restrictions during snow emergencies*. After a snowfall of 2 inches or more or upon the declaration of a snow emergency by the City Administrator:

(1) No person may park or leave standing any vehicle on a snow emergency route until the snow has been plowed on those streets; and

(2) Except for the streets in the Central Business District described in Ch. 74, Schd. I(B), the parking restrictions set forth in division (B) above, and shall be in effect 24 hours a day until the snow has been plowed on those public streets.

(2013 Code, § 9.50) (Ord. 107, passed 10-28-1982; Ord. 127, passed 8-4-1983; Ord. 171, passed 7-4-1985; Ord. 217, passed 5-28-1987; Ord. 281, passed 2-1-1990; Ord. 321, passed 12-12-1991; Ord. 337, passed 7-23-1992; Ord. 346, passed 11-3-1992; Ord. 350, passed 12-10-1992; Ord. 363, passed 10-28-1993; Ord. 364, passed 11-25-1993; Ord. 462, passed 9-26-1996; Ord. 504, passed 11-20-1997; Ord. 560, passed 10-28-1999; Ord. 614, passed 10-25-2001; Ord. 740, passed 10-27-2005; Ord. 770, passed 10-26-2006; Ord. 787, passed 10-25-2007; Ord. 838, passed 9-30-2010; Ord. 849, passed 10-27-2011) Penalty, see § 71.99

§ 71.99 PENALTY.

Every person who violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(A) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, the person shall be punished for a misdemeanor; where the person stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, the person shall be punished as for a misdemeanor.

(B) *Petty misdemeanor*. As to any violation not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 9.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

CHAPTER 72: RECREATIONAL VEHICLES

Section

Cross-reference:

Traffic rules, see Ch. 70

SNOWMOBILE AND ALL-TERRAIN VEHICLE TRAFFIC CONTROL

§ 72.01 DEFINITIONS.

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

ALL-TERRAIN VEHICLE or ***ATV.*** Trail bikes, mini bikes, mopeds, amphibious vehicles, and similar devices other than snowmobiles used at least partially for travel on natural terrain but not "special mobile equipment" defined in M.S.§ 168.002, subd. 31, as it may be amended from time to time, which is hereby incorporated herein by reference.

DEADMAN THROTTLE or ***SAFETY THROTTLE.*** A device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

NATURAL TERRAIN. Areas other than roadways or driveways (private or public), parking lots, and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

OPERATE. To ride in or on and control the operation of a snowmobile or ATV.

OPERATOR. Every person who operates or is in actual physical control of a snowmobile or ATV.

OWNER. A person, other than a lienholder having the property in or title to a snowmobile or ATV entitled to the use or possession thereof.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992)

§ 72.02 SCOPE OF APPLICATION.

(A) Notwithstanding provisions of this subchapter to the contrary, this section shall apply to control of traffic and regulation of that certain class of vehicles falling within the definition of snowmobiles or ATV as to matters set forth herein.

(B) All provisions of this subchapter, not relating to matters herein stated, apply as equally to snowmobiles or ATV as other vehicles.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992)

§ 72.03 OPERATION.

It is unlawful for any person to operate a snowmobile or ATV not licensed as a motor vehicle as follows:

(A) On the portion of any right-of-way of any public highway, street, road, trail, or alley used for motor vehicle travel, except as follows.

(1) A snowmobile may operate upon the most right hand lane of a municipal street or alley and may in passing or making a left hand turn, operate on other lanes which are used for vehicle traffic in the same direction only when the snowmobile is traveling directly to or from the residence of the operator and the nearest lawfully designated snowmobile trail, and only when traveling at a rate of speed not in excess of 15 mph.

(2) A snowmobile may also be operated upon the ditch bottom or the outside bank of trunk, county state-aid, and county highways where such highways are so configured within the corporate limits.

(3) A snowmobile may operate on Levee Drive and Fuller Street only if the snowmobile is traveling to or from a lawfully designated snowmobile trail and the designated snowmobile parking area at 219 West 1st Avenue.

(B) On a public sidewalk or bicycle trail provided for pedestrian or bicycle travel;

(C) On boulevards within any public right-of-way;

(D) On private property of another without specific permission of the owner or person in control of said property;

(E) At a rate of speed greater than reasonable or proper under all surrounding circumstances;

(F) At any place in a careless, reckless, or negligent manner or heedlessly in disregard of the rights or safety of others, or in a

manner so as to endanger or be likely to endanger or cause injury or damage to any person or property;

(G) On any publicly-owned or publicly-controlled property or land, other than lawfully designated snowmobile trails, except as otherwise allowed in this subchapter;

(H) So as to tow any person or thing except through use of a rigid towbar attached to the rear of the snowmobile or ATV;

(I) At any place while under the influence of alcohol or drugs as defined in M.S. § 169A.20, as it may be amended from time to time, which is hereby incorporated herein by reference; and

(J) Within 100 feet of any pedestrian, fisherman, skating rink, or sliding area where the operation would conflict with the use or endanger other persons or property.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992; Ord. 589, passed 1-25-2001; Ord. 918, passed 10-6-2015) Penalty, see § 72.99

§ 72.04 SPECIAL ORDERS.

(A) In addition to the regulations provided in § 72.03, it is unlawful to operate a snowmobile or ATV on any public place where prohibited by order of the city.

(B) The city shall have the power, by written order, to prohibit such operation whenever in its discretion the same would be likely to produce damage to property or endanger the safety or repose of other persons.

(C) Such areas shall be appropriately sign-posted before such order shall become effective.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.05 DIRECT CROSSINGS.

A snowmobile or ATV may make a direct crossing of a street or highway, except an interstate highway or freeway, provided:

(A) The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;

(B) The snowmobile or ATV is brought to a complete stop before crossing the shoulder or main traveled way;

(C) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard;

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

(E) (1) If the crossing is made between the hours of 1/2 hour after sunset to 1/2 hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on. ATVs not licensed as a motor vehicle are forbidden to cross highways or streets except when they are pushed across by human power; and

(2) ATVs when pushed across highways or streets shall be subject to all the regulations of this subchapter.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.06 YIELDING THE RIGHT-OF-WAY.

It is unlawful for any person operating a snowmobile to enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.07 PERSONS UNDER 18 YEARS OF AGE.

(A) (1) It is unlawful for any person under the age of 14 years to operate a snowmobile on streets, in city parks or other public land, or the roadway surface of highways, or make a direct crossing of a trunk, county state-aid, or county highway as the operator of a snowmobile.

(2) A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile as permitted under this subchapter, only if that person has in his or her possession, a safety certificate issued by the Commissioner of Natural Resources as provided by M.S. § 84.872, as it may be amended from time to time.

(B) It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this subchapter.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.08 EQUIPMENT.

It is unlawful for any person to operate a snowmobile or ATV any place within the city unless it is equipped with the following:

(A) Standard mufflers that are properly attached and reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cut-out, by-pass, straight pipe, or similar device on a snowmobile or ATV motor;

(B) Brakes adequate to control the movement of and to stop and hold the snowmobile or ATV under any condition of operation;

(C) A safety or so-called "deadman" throttle in operating condition;

(D) (1) When operated between the hours of 1/2 hour after sunset to 1/2 hour before sunrise or at a time of reduced visibility, at least 1 clear lamp attached to the front, with sufficient intensity to reveal persons, and vehicles at a distance of at least 100 feet ahead during the hours of darkness and under normal atmospheric conditions;

(2) Such head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile or ATV operator; and

(3) It shall also be equipped with at least 1 red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions.

(E) Reflective material at least 16 square inches on each side, forward of the handlebars, or steering device of a snowmobile or ATV and at the highest practical point on any towed object, as to reflect light at a 90 degree angle.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.09 LOCKING VEHICLES.

It is unlawful for any person to leave a snowmobile or ATV in a public place unless that person locks the ignition, removes the key and takes the same with them.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.10 EMERGENCIES.

Notwithstanding the prohibition of operating a snowmobile upon a roadway to the contrary, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, at locations where, snow upon the roadway renders travel by automobile impractical.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.11 ANIMALS.

It is unlawful to intentionally drive, chase, run over or kill any animal with a snowmobile or ATV.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

§ 72.12 SIGNAL FROM OFFICER TO STOP.

It is unlawful for a snowmobile or ATV operator, after having received a visible or audible signal from any law enforcement officer to come to a stop, to:

(A) Operate a snowmobile or ATV in willful or wanton disregard of such signal;

(B) Interfere with or endanger the law enforcement officer or any other person or vehicle; or

(C) Increase speed or attempt to flee or elude the officer.

(2013 Code, § 8.30) (Ord. 1, passed 4-1-1978; Ord. 187, passed 1-30-1986; Ord. 337, passed 7-23-1992) Penalty, see § 72.99

MOTORIZED GOLF CARTS

§ 72.25 PURPOSE.

Pursuant to its authority under M.S. § 169.045, as it may be amended from time to time, the city authorizes the operation of motorized golf carts on designated roadways as permitted under this subchapter.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.26 PERMIT; GENERALLY, REQUIRED, AND APPLICATION.

(A) *Generally*. No person may operate a motorized golf cart without first obtaining a permit from the city.

(B) *Permit application*. Every application for a permit must be made on a form supplied by the city and must contain the following information:

(1) Date;

(2) The name, address, and phone number of the applicant;

(3) The roadways on which the motorized golf cart will be operated;

(4) The time of operation of the motorized golf cart; and

(5) Such other information as the city may require.

(C) *Permit; term and conditions*.

(1) *Term*. Permits are effective for 1 year from the date of issuance and may be annually renewed.

(2) *Conditions of permit*.

(a) The applicant must provide evidence of insurance complying with the provisions of M.S. § 65B.48, subd. 5, as it may be amended from time to time.

(b) Applicants not able to obtain liability insurance in the private market, may purchase automobile insurance, including no-fault coverage, from the State Automobile Assigned Risk Plan at a rate to be determined by the Commissioner of Commerce.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.27 DESIGNATED ROADWAYS.

Motorized golf carts may be operated on all roadways in the city with a speed limit of 35 mph or less.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.28 TIMES OF OPERATION.

(A) Motorized golf carts may only be operated on the designated roadways from sunrise to sunset.

(B) They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006) Penalty, see § 72.99

§ 72.29 SLOW-MOVING EMBLEM.

Motorized golf carts must display the slow-moving emblem as described in M.S. § 169.522, as it may be amended from time to time, when operated on designated roadways.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.30 CROSSING INTERSECTION HIGHWAYS.

The operator, under permit, of a motorized golf cart may cross any street or highway at signalized intersections.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.31 APPLICATION OF TRAFFIC LAWS.

Every person operating a motorized golf cart under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under M.S. Ch. 169, as it may be amended from time to time, except when those provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in M.S. § 169.045, subd.7, as it may be amended from time to time.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.32 SUSPENSION OR REVOCATION OF PERMITS.

The City Council may suspend or revoke a permit if the permittee has violated any of the provisions of this subchapter or M.S. Ch. 169, as it may be amended from time to time, or if there is evidence that the permittee cannot safely operate the motorized golf cart on the designated roadways.

(2013 Code, § 8.31) (Ord. 764, passed 8-3-2006)

§ 72.99 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(1) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property the person shall be punished as for a misdemeanor; where the person stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, the person shall be punished as for a misdemeanor.

(2) *Petty misdemeanor*. As to any violations not constituting a misdemeanor under the provisions of division (A)(1) above, the person shall be punished as for a petty misdemeanor.

(3) *Adoption by reference*. As to any violation of a provision adopted by reference, the person shall be punished as specified in such provision, so adopted.

(4) *Impoundment*. Any vehicle used in or during the violation of any provision of §§ 72.01 through 72.12 may be impounded for 60 days in addition to any other penalty provided in this section.

(2013 Code, § 8.99)

(B) A violation of §§ 72.25 through 72.32 is a petty misdemeanor.

(2013 Code, § 8.31)

(Ord. 1, passed 4-1-1978; Ord. 141, passed 1-26-1984; Ord. 337, passed 7-23-1992; Ord. 589, passed 1-25-2001)

CHAPTER 73: TRAFFIC SCHEDULE

Schedule

I. Prohibition of persons on wheels other than bicycles

SCHEDULE I. PROHIBITION OF PERSONS ON WHEELS OTHER THAN BICYCLES.

(A) Persons on wheels other than bicycles are prohibited on any state highway or county road, in the industrial park and on the busiest streets.

(B) These streets are as follows.

Street	*Location*
1st Avenue (Highway 101)	Its entire length
4th Avenue	From Cass to County Road 83
6th Avenue	From Holmes Street west to 10th Avenue
10th Avenue	West of Harrison
12th Avenue	From County Road 83 to Valley Park Drive
13th Avenue	East of Bloomington Ferry Bridge Road (County Road 18)
Adams Street (County Road 15)	Its entire length
Bloomington Ferry Bridge Road (County Road 18)	Its entire length
County Road 14	Its entire length
County Road 42	Its entire length
County Road 77	From Marschall Road (County Road 17) to Spencer Street

County Road 83	(County Road 79) NA
Eagle Creek Boulevard (County Road 16)	From Marschall Road (County Road 17) to Bloomington Ferry Bridge Road (County Road 18)
Fuller Street	Its entire length
Highway 169	Its entire length
Marschall Road (County Road 17)	Its entire length
Shenandoah Drive	Its entire length
Spencer Street (County Road 79)	South of 10th Avenue
Valley Industrial Boulevard	Its entire length
Valley Park Drive	From 12th Avenue to Highway 101
Vierling Drive	Its entire length

(2013 Code, § 8.06) (Ord. 1, passed 4-1-1978; Ord. 396, passed 1-12-1995) Penalty, see § 70.99

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Parking during maintenance, snowy weather, and in Central Business District

SCHEDULE I. PARKING DURING MAINTENANCE, SNOWY WEATHER, AND IN CENTRAL BUSINESS DISTRICT.

(A) *Parking restrictions from November 1 through March 31.*

(1) From November 1 of each year through March 31 of the following year, no person may park or leave standing a vehicle on any public street located west of Marschall Road, north of 10th Avenue, east of County Road 69, and south of the Minnesota River between 2:00 a.m. and 6:00 a.m.,except that on even-number calendar days period vehicle parking is allowed during this time on the even-number address sides of public streets located in this area, and on odd-numbered calendar days vehicle parking is allowed during this time on the odd-number address sides of public streets in this area.

(B) *Parking hours in the Central Business District.* Notwithstanding any other provision in this division (B), no person may park or leave standing a vehicle on the following streets in the Central Business District between 2:00 a.m. and 6:00 a.m., on any day of the year: 2nd Avenue; 1st Avenue between Sommerville and Fuller Street and Lewis Street; and Holmes Street and Fuller Street between 3rd Avenue and 1st Avenue.

(C) *Parking restrictions during snow emergencies.* The following streets are designated as snow emergency routes.

Street	***Location***
Either side of 2nd Avenue	From Sommerville to Naumkeag Street
3rd Avenue	From Harrison Street to Fuller Street
4th Avenue	From Fuller Street to County Road 83

6th Avenue	From Holmes Street to 10th Avenue
10th Avenue	From County Road 69 to Shakopee Avenue
12th Avenue	From Adams Street to Taylor Street
12th Avenue	From Vierling Drive to Valley Park Drive
Adams Street	From 6th Avenue to Vierling Drive
Crossings Boulevard	From Foothill Trail to 900 feet north of Hansen Avenue
Dakota Street	From 4th Avenue to 10th Avenue
Dean Lakes Boulevard	From cul-de-sac to County Road 83
Dean Lakes Trail	From Dean Lakes Boulevard to County Road 16
Eagle Creek Boulevard	From County Road 17 to County Road 83
Foothill Trail	From County Road 16 to Crossings Boulevard
Fuller Street	From 1st Avenue to 4th Avenue and 6th Avenue to County Road 78
Gorman Street	From 4th Avenue to Marschall Road
Hansen Avenue	From Stagecoach Road to County Road 21
Harrison Street	From 3rd Avenue to 6th Avenue
Holmes Street	From 4th Avenue to 6th Avenue
Independence Drive	From 17th Avenue to Valley View Road
Market Street	From 1st Avenue to 10th Avenue
Pike Lake Road	From County Road 16 to County Road 21
Preserve Trail	From County Road 18 to Creek Ridge Court
Sarazin Street	From County Road 16 to County Road 101
Sarazin Street	From 17th Avenue to Valley View Road
Scott Street	From 1st Avenue to 6th Avenue
Shakopee Avenue	From 10th Avenue to 11th Avenue
Southbridge Parkway	From County Road 21 to County Road 21
Spencer Street	From 1st Avenue to 10th Avenue
Stagecoach Road	From Preserve Trail to County Road

St. Francis Avenue	From Marschall Road to Sarazin Street
Taylor Street	From Vierling Drive to 12th Avenue
Valley Park Drive	From County Road 101 to 12th Avenue
Valley View Road	From Sarazin Street to County Road 83
Valley View Road	From 17th Avenue East to Evergreen Lane
Vierling Drive	From 12th Avenue to Taylor Street

(2013 Code, § 9.50) (Ord. 107, passed 10-28-1982; Ord. 127, passed 8-4-1983; Ord. 171, passed 7-4-1985; Ord. 217, passed 5-28-1987; Ord. 281, passed 2-1-1990; Ord. 321, passed 12-12-1291; Ord. 337, passed 7-23-1992; Ord. 346, passed 11-3-1992; Ord. 350, passed 12-10-1992; Ord. 363, passed 10-28-1993; Ord. 364, passed 11-25-1993; Ord. 462, passed 9-26-1996; Ord. 504, passed 11-20-1997; Ord. 560, passed 10-28-1999; Ord. 614, passed 10-25-2001; Ord. 740, passed 10-27-2005; Ord. 770, passed 10-26-2006; Ord. 787, passed 10-25-2007; Ord. 838, passed 9-30-2010; Ord. 849, passed 10-27-2011; Ord. 946, passed 10-4-2016)

TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: STREETS AND SIDEWALKS

Section

Right-of-Way Management

§ 90.01 APPLICATION.

(A) *All drivers*. The provisions of this chapter and Title VII applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles including, but not limited to, those owned or operated by the United States; this state; or any county, city, town, district, or any other political subdivision of the state, subject to such specific exemptions as may be set forth in this chapter and Title VII.

(B) *Bicycles and animals*. Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of this chapter and Title VII applicable to the driver of a vehicle, except those provisions which by their nature can have no application. Provisions specifically referring to bicycles shall be in addition to other provisions of these chapters applying to vehicles.

(2013 Code, § 7.01) (Ord. 1, passed 4-1-1978)

§ 90.02 SCOPE AND ORDERS OF POLICE OFFICER.

(A) *Scope*. The provisions of this chapter and Title VII relate exclusively to the streets, alleys, and private roads in the city, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys, and private roads.

(B) *Orders of a police officer*. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic.

(2013 Code, § 7.02) (Ord. 1, passed 4-1-1978) Penalty, see § 90.99

§ 90.03 TRAFFIC AND PARKING CONTROL.

(A) *Council action*. No device, sign, or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this section; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to Council action thereon.

(B) *Temporarily restricting or directing traffic and parking; curb painting.*

(1) When clearly marked, barricaded, or sign-posted, traffic and parking may be temporarily restricted for any public or private use. All such restrictions shall be in accordance with the uniform policy promulgated by the City Administrator who may act through the Public Works Director, but who shall be ultimately responsible to the Council for the proper enforcement thereof.

(2) Restricted or prohibited use of parking and traffic lanes may be designated by painting the same upon streets and curbs. Such work shall be done under the direction of the City Administrator and in compliance with the provisions of this chapter and Title VII.

(3) It is unlawful to use traffic or parking lanes contrary to sign-posting or marking authorized and described by this section.

(4) Experimental restrictions and directions may be placed on traffic and parking by the City Administrator, and it shall be the City Administrator's duty to do so when an extra-hazardous condition is observed or arises. It is unlawful to violate any restriction or direction when the same has been duly marked, barricaded, or sign posted.

(2013 Code, § 7.03) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 90.99

§ 90.04 ICE AND SNOW ON PUBLIC STREETS.

(A) *Ice and snow a nuisance*. All snow and ice remaining on public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within 24 hours after such snow or ice has ceased to be deposited upon property zoned commercial and within 36 hours after such snow or ice has ceased to be deposited upon property zoned other than commercial.

(B) *City to remove snow and ice*. The city may cause to be removed from all public sidewalks, beginning 24 hours after snow or

ice has ceased to fall, all snow and ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.

(C) *Cost of removal to be assessed*. The City Administrator shall, upon direction of the Council, and on receipt of the information provided for in division (B) above, extend the cost of such removal of snow or ice as a special assessment against the lots or parcels of ground abutting on walks which were cleared, and such special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

(D) *Civil suit for cost of removal*. The City Administrator shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in division (B) above, the cost of such clearing and the cost and disbursements of a civil action therefor.

(E) *City Administrator to report sidewalks cleared*. The City Administrator shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in division (B) above hereof the report of the city thereon, and shall request the Council to determine by resolution the manner of collection to be used as provided in divisions (C) or (D) above.

(F) *Placing snow or ice in public street or on other city property*. It is a misdemeanor for any person, not acting under a specific contract with the city, to remove snow from private property or alleys and place the same on a public street in such quantity, or in such manner, as to cause a hazard to travel, without adequate arrangements for the immediate removal thereof; and it is also a misdemeanor for any person not acting under a contract with the city to dump snow on other city property.

(2013 Code, § 7.04) (Ord. 263, passed 4-28-1989; Ord. 341, passed 8-27-1992) Penalty, § 90.99

§ 90.05 REGULATION OF GRASS, WEEDS, AND TREES ALONG STREETS.

(A) *City to control tree planting (standards)*. The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all streets and other public property. The city may establish and enforce uniform standards relating to the species and types of trees to be planted, placement, and the maintenance and removal thereof. Such standards shall be kept on file in the office of the City Administrator and may be revised from time to time by action of the Council upon the recommendation of the City Administrator.

(B) *Duty of property owners*. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such place attain a height in excess of 6 inches it shall be prima facie evidence of a failure to comply with this division (B). Every owner of property abutting on any street shall trim, cut, remove, and otherwise maintain all trees and shrubs located on their property which overhang public right-of-way, and which create a hazardous condition.

(C) *City may order work done*. The city may in cases of failure to comply with this section, perform such work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece, or parcel of land abutting upon such street.

(D) *Assessment*. If maintenance work described in division (C) above is performed by the city, the City Administrator shall forthwith upon completion thereof, ascertain the cost attributable to each lot, piece, or parcel of abutting land. The City Administrator shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved, it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

(2013 Code, § 7.05) (Ord. 1, passed 4-1-1978; Ord. 338, passed 8-6-1992; Ord. 267, passed 1-13-1994; Ord. 403, passed 3-2-1995)

§ 90.06 CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALKS, CURBS, AND GUTTERS.

(A) *Design criteria and standard specifications*. Design criteria and standard specifications including details shall be fixed, determined, and amended by the Council and adopted by resolution. Such resolution containing the effective date thereof shall be kept on file and open to inspection in the office of the City Administrator and shall be uniformly enforced.

(B) *Methods of procedure*.

(1) Abutting or affected property owners may contract for, construct, or reconstruct roadway surfacing, sidewalk, or curb and

gutter in accordance with this section if advance payment is made therefor or arrangements for payment considered adequate by the city are completed in advance.

(2) With or without petition by the methods set forth in the Local Improvement Code of state statutes, presently beginning with M.S. § 429.011, as it may be amended from time to time.

(C) *Permit required*.

(1) It is a misdemeanor to construct, reconstruct, or remove a sidewalk, curb, and gutter, driveway, or roadway surfacing in any street or other public property in the city without a permit in writing from the Public Works Director or designee. Application for such permit shall be made on forms approved and provided by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same; provided, that no permit shall be required for any such improvement ordered installed by the Council.

(2) All applications shall be referred by the City Administrator to the City Engineer and no permit shall be issued until approval has been received from the City Engineer. All such applications shall contain an agreement by the applicant to be bound by this chapter and plans and specifications consistent with the design criteria and standard specifications shall be approved by the City Engineer and shall also accompany the application. A permit from the city shall not relieve the permit holder from damages to the person or property of another caused by such work.

(D) *Inspection*. The City Engineer shall inspect roadway construction and reconstruction. Any work not done according to the approved design criteria and standard specifications shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the City Engineer if found to be unsatisfactory or not in accordance with the design criteria and standard specifications, but this shall not place a continuing burden upon the city to inspect or supervise such work.

(2013 Code, § 7.06) (Ord. 1, passed 4-1-1978; Ord. 34, passed 11-15-1979; Ord. 137, passed 10-27-1983)

§ 90.07 WORK IN PUBLIC RIGHT-OF-WAY.

(A) *Misdemeanor*. It is a misdemeanor for any person, except a city employee acting within the course and scope of the employee's employment, or a contractor acting within the course and scope of a contract with the city, to make any excavation, opening, or tunnel in, over, across, or upon a street, or other public right-of-way or easement without first having obtained a written permit from the City Engineer, as herein provided.

(B) *Application*. Application for a permit to work in public right-of-way shall describe with reasonable particularity the name and address and phone number of the applicant, the place, the type of work, and such other information as may be necessary or desirable and shall be filed with the City Engineer.

(C) *Fixing rates and charges for permits for work in public right-of-way*. All rates and charges for permits for work in public right-of-way shall be fixed, determined, and amended by the Council and adopted by resolution. Such resolution containing the effective date thereof shall be kept on file and open to inspection in the office of the City Administrator and shall be uniformly enforced.

(D) *Protection of the city and the public*.

(1) *Non-completion or abandonment*. Work shall proceed expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the city may, after 6 hours' notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation, and repair the public property, and the cost thereof shall be paid by the person holding the permit.

(2) *Insurance*.

(a) Prior to the commencement of work described in the permit application, the applicant shall take out and maintain insurance at the applicant's own cost and expense. The insurance shall remain in force from the commencement of the work continually until final completion of the work under this permit.

(b) The insurance shall be public liability and property damage insurance and personal injury, including accidental death, from claims for property damage, as provided by M.S. §§ 466.01 through 466.15, as they may be amended from time to time, which may arise from operation under this permit, whether such operation be by the applicant or by anyone directly or indirectly employed by the applicant and including claims arising by reason of any injury or damage sustained after the applicant has completed the work or left

the site thereof.

(c) The public liability insurance shall be in an amount not less than $1,000,000 for injuries or damages including accidental death to any 1 person and in the amount of $2,000,000 for any number of claims out of a single occurrence. The permit shall not be issued until the insurance has been obtained. Certificates of insurance shall be deposited with the City Administrator and the insurance shall include general liability coverage for comprehensive liability coverage, premises-operations explosion and collapse hazard, underground hazard, and products/completed operations hazard.

(d) Certificates shall be executed by the insurer or its agent and shall expressly stipulate that the policies are non-cancellable until after 10 days' notice in writing to the city and shall be filed with the City Administrator. Certificates of liability policies must show that the city is 1 of the parties insured by the applicant. All certificates shall be submitted prior to issuance of the permit and shall be subject to the approval of the City Attorney.

(e) Public service corporations that are self-insured are exempt from said insurance requirements providing that each year before January 30 the said corporations file with the City Administrator a letter stating that said corporation is currently self-insured.

(E) *Issuance of permit*. The City Engineer shall issue such permit after the following conditions are met:

(1) Permit fees have been established;

(2) Payment by the applicant of the permit fee;

(3) Agreement by the applicant to the conditions of time and manner as specified in the permit;

(4) Receipt by the city of insurance certificates of insurance specified in the provisions of this section;

(5) Agreement by the applicant, in writing, to guarantee the work covered by this permit for a period of 2 years;

(6) Agreement by the applicant, in writing, to pay all actual costs of repairs and restoration necessitated by reason of such work in public right-of-way and subsequent to final inspection of the work and within 1 year thereafter;

(7) Agreement by the applicant, in writing, to save and hold harmless the city, its employees and agents from any acts arising from the construction and/or maintenance of the applicant's facilities or work covered by the permit; and

(8) Agreement by the applicant, in writing, to be bound by all the provisions in this section.

(2013 Code, § 7.07) (Ord. 69, passed 11-19-1981; Ord. 87, passed 2-16-1982; Ord. 95, passed 5-27-1982; Ord. 170, passed 6-27-1985; Ord. 337, passed 7-23-1992) Penalty, see § 90.99

§ 90.08 OBSTRUCTIONS, FIRE, DUMPING, SIGNS, AND OTHER STRUCTURES.

(A) *Obstructions*. It is unlawful for any person to place, deposit, display, or offer for sale, any fence, goods, or other obstructions upon, over, across, or under any street or other public property without first having obtained a written permit from the City Administrator or their designee, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation within the definition of an obstruction.

(B) *Fires*. It is unlawful for any person to build or maintain a fire upon a roadway.

(C) *Dumping in streets*. It is unlawful for any person to throw or deposit in any street or any other public place any nails, dirt, glass, tin cans, metal scraps, garbage, leaves, grass, or tree limbs, shreds or rubbish, or to empty any water containing salt or other injurious chemical thereon; the effect of this division (C) shall extend, but not by way of limitation, to depositing grease, oil, and other fuel or lubricants in such places and to place a motor vehicle with essential parts (as defined in state statutes) removed, except such vehicles as are temporarily disabled for a period not in excess of 12 hours.

(D) *Signs and other structures*. It is unlawful for any person to place or maintain a sign or other structure in the traveled or untraveled portion of any street or other public property without first having obtained a written permit from the city. In a district zoned for commercial, special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of this code of ordinances.

(2013 Code, § 7.08) (Ord. 1, passed 4-1-1978; Ord. 934, passed 6-21-2016) Penalty, see § 90.99

§ 90.09 CURB AND GUTTER, STREET, AND SIDEWALK PAINTING OR COLORING.

It is unlawful for any person to paint, letter, or color any street, sidewalk, or curb and gutter for advertising purposes, or to paint or color any street, sidewalk, or curb and gutter for any purpose, except as the same may be done by city employees acting within the course or scope of their employment; provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers as such coloring may be approved by the City Administrator.

(2013 Code, § 7.09) (Ord. 1, passed 4-1-1978) Penalty, see § 90.99

§ 90.10 CURB SETBACK.

(A) *Permit required*. It is a misdemeanor for any person to hereafter remove, or cause to be removed, any curb from its position abutting upon the roadway to another position without first making application to the city and obtaining a permit therefor, approved by the Council.

(B) *Agreement required*.

(1) No such permit shall be issued until the applicant and abutting landowner, if other than applicant, shall enter into a written agreement with the city agreeing to pay all costs of constructing and maintaining such setback area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove such setback and reconstruct the area as was at the expense of the landowner, the landowner's heirs, or assigns if the area ever, in the Council's opinion becomes a public hazard.

(2) Such agreement shall be recorded in the office of the County Recorder and shall run with the adjoining land.

(C) *Sign-posting*. "Angle Parking Only" signs shall be purchased from the city and erected and maintained at the expense of the adjoining landowner in all such setback areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in such setback areas, as such angle parking is herein described and allowed.

(D) *Public rights preserved*. Such setback parking areas shall be kept open for public parking and the abutting landowner shall at no time acquire any special interest or control of or in such areas.

(2013 Code, § 7.10) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 90.99

§ 90.11 LIMITING TIME OF RAILWAY STREET CROSSING OBSTRUCTION.

It is unlawful for any person operating or in charge of a railroad train, car, engine, or other railroad equipment, or combination of such equipment, to permit the same to be parked or left standing upon any street crossing so as to close such crossing to vehicular traffic for a longer period than 10 minutes.

(2013 Code, § 7.11) (Ord. 1, passed 4-1-1978) Penalty, see § 90.99

§ 90.12 LOAD LIMITS.

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

(2013 Code, § 7.12) (Ord. 1, passed 4-1-1978) Penalty, see § 90.99

§ 90.13 REQUIREMENT OF SEWER AND WATER AND SERVICE LATERAL INSTALLATION.

(A) *Requirement of sewer and water laterals*. No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street unless the installation of utilities is not practicable at that time.

(B) *Sewer system service and water main service laterals*. No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

(C) *Waiver*. The Council may waive the requirements of this section if it finds the effects thereof are impractical and, at its option, upon such notice and hearing as the Council may deem necessary or proper.

(2013 Code, § 7.13) (Ord. 1, passed 4-1-1978) Penalty, see § 90.99

§ 90.14 STREETS INTERSECTED BY RAILROADS.

At all intersections of streets and railroads, the owner of the railroad shall be responsible for planking or otherwise surfacing the space between track of the railroad in such a way as to place it on the same grade or level as the abutting grade or level of the street and to the full width of such street.

(2013 Code, § 7.14) (Ord. 1, passed 4-1-1978)

§ 90.15 RAILROAD GRADES.

No railroad grade shall, whether it be by raising or lowering the same, be made without a permit in writing from the city.

(2013 Code, § 7.15) (Ord. 1, passed 4-1-1978) Penalty, see § 90.99

§ 90.16 ENCROACHMENTS IN EASEMENT AREAS.

(A) *Encroachments prohibited*. No trees, shrubs, bushes, retaining walls, structures, hard surface areas, or other obstructions, with the exception of shallow root plantings and garden fences, shall be placed within an easement area held by the city, except if written permission has been granted by the city and the encroachment is in conformance with the city's most recently adopted easement policy. For purposes of this section, a ***SHALLOW ROOT PLANTING*** shall be defined as grass, ground cover, and plants which are classified as annuals.

(B) *Exceptions*.

(1) Shallow root plantings and garden fences are permitted to be placed within the city easement areas but shall not obstruct access by city personnel, obstruct drainage, or impede the flow of surface water from or in any drainage easement.

(2) All items allowed in these easement areas are subject to the requirements of the city's most recently adopted easement policy.

(C) *Removal*.

(1) City staff may require that any shallow root planting, garden fence, or other obstruction within a city easement area or in violation of the city's sight triangle requirements be removed at the owner's expense at any time even if written permission has been obtained for the encroachment.

(2) In the event that the plantings or other obstructions are to be removed by city staff within the easement or sight triangle area and it is not an emergency situation, city staff shall attempt to provide the property owner with reasonable notice and an opportunity to remove the items.

(3) The city shall not be required to compensate the property owner for the costs of repair, replacement, or removal of the items.

(4) If the items are not removed by the property owner within the time specified in the notice, or if an emergency situation exists, representatives of the city may remove these items and may charge the property owner for any removal expenses incurred. If the removal expenses remain unpaid, the City Council may assess the property.

(D) *Enforcement*.

(1) The requirements set forth in this section shall be administered and enforced pursuant to the direction of the Public Works Director of the city. Employees of the city's Police Department may issue appropriate removal orders, issue tags for violations, or institute any other appropriate actions or proceedings against a violator as provided for in this section.

(2) Any violation of an order issued pursuant to this section by the Public Works Department of the city shall constitute a violation of this section. Any property owner who violates any provision of this section, or who fails to comply with any provision, may be prosecuted and punished in accordance with § 90.99

(E) *Appeal*. Any person aggrieved by a decision of city staff regarding the placement or removal of items within the easement or sight triangle area may appeal such decision to the Board of Adjustment and Appeals. An appeal must be brought within 30 days of the date of the decision. After consideration of such appeal, the Board of Adjustment and Appeals may make such findings and issue such orders as it deems appropriate.

(2013 Code, § 7.18) (Ord. 780, passed 6-14-2007) Penalty, see § 90.99

RIGHT-OF-WAY MANAGEMENT

§ 90.30 FINDINGS, PURPOSE, AND INTENT.

(A) To provide for the health, safety, and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

(B) Accordingly, the city enacts this new subchapter relating to right-of-way permits and administration. This subchapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within the city's rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this subchapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work through the recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

(C) This section shall be interpreted consistently with 1997 Session Laws, Ch. 123, substantially codified in M.S. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act"), as they may be amended from time to time, and the other laws governing applicable rights of the city and users of the right-of-way. This subchapter shall also be interpreted consistent with Minn. Rules 7819.0050 through 7819.9950 where possible. To the extent that any provision of this subchapter cannot be interpreted consistently with the Minn. Rules, the interpretation most consistent with the Act and other applicable statutory and case law is intended.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.31 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

Pursuant to the authority granted to the city under state and federal statutory, administrative, and common law, the city elects pursuant M.S. § 237.163, subd. 2(b), as it may be amended from time to time, to manage rights-of-way within its jurisdiction.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.32 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. References to "subdivisions" are, unless otherwise specified, references to subdivisions in this subchapter.

ABANDONED FACILITY. A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

APPLICANT. Any person requesting permission to excavate or obstruct a right-of-way.

CITY. The City of Shakopee, Minnesota. For purposes of § 90.54, ***CITY*** means its elected officials, officers, employees, and agents.

COMMISSION. The Minnesota Public Utilities Commission.

CONGESTED RIGHT-OF-WAY. A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with M.S. § 216D.04, subd. 3, as it may be amended from

time to time, over a continuous length in excess of 500 feet.

CONSTRUCTION PERFORMANCE BOND. Any of the following forms of security provided at permittee's option:

(1) Individual project bond;

(2) Cash deposit;

(3) Security of a form listed or approved under M.S. § 15.73, as it may be amended from time to time;

(4) Letter of credit, in a form acceptable to the city;

(5) Self-insurance, in a form acceptable to the city; and

(6) A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

DEGRADATION. A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST. Subject to Minn. Rules 7819.1100, means the cost to achieve a level of restoration as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn Rules 7819.9900 to 7819.9950.

DEGRADATION FEE. The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

DELAY PENALTY. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

DEPARTMENT. The Department of Public Works of the city.

DEPARTMENT INSPECTOR. Any person authorized by the city to carry out inspections related to the provisions of this subchapter.

DIRECTOR. The Director of the Department of Public Works of the city, or the Director's designee.

EMERGENCY. A condition that:

(1) Poses a danger to life or health, or of a significant loss of property; or

(2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

EQUIPMENT. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

EXCAVATION PERMIT. The permit which, pursuant to this subchapter, 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 SUBDIVISION PERMIT FEE. Money paid to the city by an applicant to cover the costs as provided in § 90.39.

FACILITY or ***FACILITIES.*** Tangible asset in the public right-of-way required to provide utility service. The term does not include facilities to the extent the location and relocation of such facilities are preempted by M.S. § 161.45, as it may be amended from time to time, governing utility facility placement in state trunk highways.

FIVE-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next 5 years.

HIGH-DENSITY CORRIDOR. A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

HOLE. An excavation in the right-of-way, with the excavation having a length less than the width of the pavement or adjacent pavement.

LOCAL REPRESENTATIVE. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this subchapter.

MANAGEMENT COSTS. The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. ***MANAGEMENT COSTS*** do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of State Session Laws 1997, Ch. 123; M.S. §§ 237.162 or 237.163, as they may be amended from time to time, or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to § 90.57.

OBSTRUCT. To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

OBSTRUCTION PERMIT. The permit which, pursuant to this subchapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein, including a blanket permit for a period of time and for types of work specified by the Director, if deemed appropriate in Director's discretion.

OBSTRUCTION PERMIT FEE. Money paid to the city by a permittee to cover the costs as provided in § 90.39.

PATCH or ***PATCHING.*** A method of pavement replacement that is temporary in nature. A ***PATCH*** consists of:

(1) The compaction of the sub-base and aggregate base; and

(2) The replacement, in kind, of the existing pavement for a minimum of 2 feet beyond the edges of the excavation in all directions. A ***PATCH*** is considered full restoration only when the pavement is included in the city's 5-year project plan.

PAVEMENT. Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

PERMIT. Has the meaning given "right-of-way permit" in M.S. § 237.162, as it may be amended from time to time.

PERMITTEE. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this subchapter.

PERSON. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

PROBATION. The status of a person that has not complied with the conditions of this subchapter.

PROBATIONARY PERIOD. One year from the date the permittee has been notified in writing that it has been placed on probation.

PUBLIC RIGHT-OF-WAY. Has the meaning given it in M.S. § 237.162, subd. 3, as it may be amended from time to time.

REGISTRANT. Any person who:

(1) Has or seeks to have its equipment or facilities located in any right-of-way; or

(2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORE or ***RESTORATION.*** The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

RESTORATION COST. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minn. Rules 7819.1100, subp. 1, on file with the Director.

RIGHT-OF-WAY PERMIT. Either the excavation permit or the obstruction permit, or both, depending on the context, required by this subchapter.

RIGHT-OF-WAY USER.

(1) A telecommunications right-of-way user as defined by M.S. § 237.162, subd. 4, as it may be amended from time to time; or

(2) A person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

SERVICE or ***UTILITY SERVICE.*** Includes:

(1) "Services provided by a public utility" as defined in M.S. § 216B.02, subds. 4 and 6, as it may be amended from time to time;

(2) Services of a telecommunications right-of-way user, including transporting of voice or data information;

(3) "Services of a cable communications system" as defined in M.S. § 238.02, subd. 3, as it may be amended from time to time;

(4) Natural gas or electric energy or telecommunications services provided by a local government unit;

(5) Services provided by a cooperative electric association organized under M.S. Ch. 308A; and

(6) Water, sewer, steam, cooling, or heating services.

SERVICE LATERAL. An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A ***SERVICE LATERAL*** is also an underground facility that is used in the removal of wastewater from a customer's premises.

SUPPLEMENTARY APPLICATION. An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TELECOMMUNICATION RIGHT-OF-WAY USER. A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this subchapter, a cable communication system defined and regulated under M.S. Ch. 238, as it may be amended from time to time, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in M.S. § 216B.02, as it may be amended from time to time, a municipality, a municipal gas or power agency organized under M.S. Chs. 453 and 453A, as they may be amended from time to time, or a cooperative electric association organized under M.S. Ch. 308A, as it may be amended from time to time, are not ***TELECOMMUNICATIONS RIGHT-OF-WAY USERS*** for purposes of this subchapter.

TEMPORARY SURFACE. The compaction of sub-base and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's 2-year plan, in which case it is considered full restoration.

TRENCH. An excavation in the right-of-way, with the excavation having a length equal to or greater than the width of the pavement or adjacent pavement.

TWO-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next 2 years.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 760, passed 5-25-2006)

§ 90.33 ADMINISTRATION.

The Director is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.34 UTILITY COORDINATION COMMITTEE.

The city may create an Advisory Utility Coordination Committee. Participation on the Committee is voluntary. It will be composed of any registrants that wish to assist the city in obtaining information and by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The city may determine the size of such Committee and shall

appoint members from a list of registrants that have expressed a desire to assist the city.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.35 REGISTRATION; RIGHT-OF-WAY OCCUPANCY AND REGISTRATION INFORMATION.

(A) *Registration and right-of-way occupancy.*

(1) *Registration generally*. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sub-lease, or assignment, must register with the city. Registration will consist of providing application information and paying a registration fee.

(2) *Registration prior to work*. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the city.

(3) *Exceptions.*

(a) Nothing in this subchapter shall be construed to repeal or amend the provisions of a city ordinance establishing the rights of and limitations placed on persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb.

(b) Persons shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements under this subchapter for the following:

1. Planting or maintaining boulevard plantings or gardens;

2. Other surface landscaping works;

3. Maintenance of driveways and parking lots unless such maintenance requires excavation work in the right-of-way;

4. Construction or maintenance of street furnishings, bus stop benches, shelters, or posts and pillars;

5. Snow removal activities;

6. Construction and maintenance of irrigation systems provided that the system does not connect directly to water mains in the right-of-way; and

7. Nothing herein relieves a person from complying with the provisions of the M.S. Ch. 216D, as it may be amended from time to time, also known as the Gopher One-Call Law.

(B) *Registration information*.

(1) *Information required*. The information provided to the city at the time of registration shall include, but not be limited to:

(a) Each registrant's name, address, and e-mail address if applicable, and telephone and facsimile numbers;

(b) 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 accessible for consultation at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;

(c) A certificate of insurance or self-insurance:

1. Verifying that an insurance policy has been issued to the registrant by an insurance company authorized to do business in the state or a form of self insurance acceptable to the city;

2. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

a. Use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees; and

b. Placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property.

3. Either naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages or otherwise providing evidence satisfactory to the Director that the city is fully covered and will be defended through registrant's insurance for all actions included in Minn. Rules 7819.1250;

4. Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

5. Indicating comprehensive liability coverage, automobile liability coverage, worker's compensation, and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this subchapter.

(d) The city may require a copy of the actual insurance policies if necessary to ensure the Director that the policy provides adequate third-party claim coverage and city indemnity and defense coverage for all actions included in the indemnity required by Minn. Rules 7819.1250; and

(e) Such evidence as the Director may require that the person is authorized to do business in the state.

(2) *Notice of changes*. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 578, passed 9-14-2000)

§ 90.36 REPORTING OBLIGATIONS.

(A) *Operations*.

(1) Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

(2) The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the 5 years following the next calendar year (in this subchapter, a 5-year project).

(3) The term ***PROJECT*** in this section shall include both next-year projects and 5-year projects.

(4) By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list. Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

(B) *Additional next-year projects*. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.37 PERMITS.

(A) *Permit required*.

(1) Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(a) *Excavation permit*. An excavation permit is required by a registrant to excavate that part of the right-of-way described in

such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(b) *Obstruction permit.* An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(2) *Permit extensions*. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless:

(a) Such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

(b) A new permit or permit extension is granted.

(3) *Delay permit*.

(a) In accordance with Minn. Rules 7819.1000, subp. 3, and notwithstanding § 90.31, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration.

(b) The delay penalty shall be established from time to time by City Council resolution. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, civil strife, acts of God, or other circumstances beyond the control of the applicant.

(4) *Permit display*. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

(B) *Permit applications*. Application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(1) Registration with the city pursuant to this subchapter;

(2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities;

(3) Payment of money due the city for:

(a) Permit fees, estimated restoration costs, and other management costs;

(b) Prior obstructions or excavations; or

(c) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city,

(4) (a) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing; and

(b) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.38 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance*. If the applicant has satisfied the requirements of this subchapter, the city shall issue a permit.

(B) *Conditions*. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.39 PERMIT FEES.

(A) *Fee schedule and fee allocation*. The city's permit fee schedule shall be available to the public and established in advance where reasonably possible. The permit fees shall be designed to recover the city's actual costs incurred in managing the right-of-way and shall be based on an allocation among all users of the right-of-way, including the city.

(B) *Excavation permit fee*. The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(C) *Obstruction permit fee*. The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

(D) *Payment of permit fees*. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow the applicant to pay such fees within 30 days of billing, or on some other payment plan agreed to by the Director at the Director's discretion.

(E) *Non-refundable*. Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 90.49 are not refundable.

(F) *Application to franchises*. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.40 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing*. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 90.43.

(B) *Patch and restoration*. The permittee must patch its own work. The city may choose either to have the permittee restore the surface and subgrading portions of the right-of-way or to restore the surface portion of the right-of-way itself.

(1) *City restoration*. If the city restores the surface portion of the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with correcting the defective work.

(2) *Permittee restoration*. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit, post a construction performance bond in accordance with the provisions of Minn. Rules 7819.3000.

(3) *Degradation fee in lieu of restoration*. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee, however, the right-of-way user shall remain responsible for replacing and compacting the subgrade and aggregate based material in the excavation and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) *Standards*. The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules 7819.1100.

(D) *Duty to correct defects*. The permittee shall correct defects in patching, restoration performed by permittee or its agents. Upon notification from the city, the permittee shall correct all restoration work to the extent necessary, using the method required by the city. Unless otherwise agreed to by the Director, said work shall be completed within 5 calendar days of 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 § 90.43.

(E) *Failure to restore*. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city shall notify the permittee in writing of the specific alleged failure or failures and shall allow the permittee 10 days from receipt of said written notice to cure said failure or failures, unless otherwise extended by the Director. In the event the permittee fails to cure, the city may at its option perform the necessary work and permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the

city may exercise its rights under the construction performance bond.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000) Penalty, see § 90.99

§ 90.41 JOINT APPLICATIONS.

(A) *Joint application*. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

(B) *Shared fees*. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(C) *With city projects*. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by 2 or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.42 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area*.

(1) A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein.

(2) 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:

(a) Make application for a permit extension and pay any additional fees required thereby; and

(b) Be granted a new permit or permit extension.

(B) *Limitation on dates*. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.43 OTHER OBLIGATIONS.

(A) *Compliance with other laws*.

(1) Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law, or regulation. A permittee shall comply with all requirements of local, state, and federal laws, including but not limited to, M.S. §§ 216D.01 through 216D.09, as they may be amended from time to time, (Gopher One-Call Excavation Notice System) and Minn. Rules 7560.

(2) A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) *Prohibited work*. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(C) *Interference with right-of-way*. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with, unless otherwise approved by the Director. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city

parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(D) *Trenchless excavation*. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to horizontal directional drilling, shall follow all requirements set forth in M.S. Ch. 216D, as it may be amended from time to time, and Minn. Rules 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director. Trenchless excavations deeper than 5 feet will not be permitted without written approval from the Director.

(E) *Traffic control*. A permittee shall implement traffic-control measures in the area of the work and shall use traffic-control procedures in accordance with the most recent manuals on uniform traffic-control, traffic-control devices, and traffic zone layouts published by the state.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 760, passed 5-25-2006)

§ 90.44 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this subchapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.45 INSTALLATION REQUIREMENTS.

(A) The excavation, backfilling, patching, and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules 7819.1100 and other applicable local requirements, in so far as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

(B) Installation of service laterals shall be performed in accordance with Minn. Rules Ch. 7560 and this subchapter. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits, city specifications, city design criteria, and agreements referenced in § 90.50.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 760, passed 5-25-2006)

§ 90.46 INSPECTION.

(A) *Notice of completion*. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rules 7819.1300.

(B) *Site inspection*. The permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of Director*.

(1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Director may issue an order to the permittee to correct any work that does not conform to the terms of the permit or other applicable standards, conditions, or code. If the work failure is a "substantial breach" within the meaning of M.S. § 237.163, subd. 4(c), as it may be amended from time to time, the order shall state that failure to correct the violation will be cause for revocation of the permit after a specified period determined by the Director. The permittee shall present proof to the Director that the violation has been corrected within the time period set forth by the Director in the order. Such proof shall be provided no later than the next business day following the day of completion. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to § 90.49.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.47 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations*.

(1) Each registrant shall immediately notify the Director of any event regarding its facilities that the registrant considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One-Call regarding an emergency situation does not fulfill this requirement. Within 2 business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this subchapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(B) *Non-emergency situations*. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way, must subsequently obtain a permit, pay an unauthorized work permit fee in an amount established from time to time by the City Council, 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 subchapter.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 760, passed 5-25-2006)

§ 90.48 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation 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.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.49 REVOCATION OF PERMITS.

(A) *Substantial breach*.

(1) The city reserves its right to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit.

(2) A substantial breach by permittee shall include, but shall not be limited to, the following:

(a) The violation of any material provision of the right-of-way permit;

(b) 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;

(c) Any material misrepresentation of fact in the application for a right-of-way permit;

(d) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or

(e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 90.46(C)(2).

(B) *Written notice of breach*. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach*. Within a time established by the Director following the permittee's receipt of notification of the breach, the permittee shall provide the city with a plan to cure the breach, acceptable to the city. The permittee's failure to submit a timely and acceptable plan, or the permittee's failure to timely implement the approved plan, shall be cause for immediate revocation of the permit. Further, the permittee's failure to contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's

failure to reasonably implement the approved plan, may result in probation for up to 1 full year.

(D) *Cause for probation*. The city may establish a list of conditions of the permit, that if breached, will be grounds to place the permittee on probation. The city shall not enforce a probation program unless and until it has established such conditions, which it may amend from time to time.

(E) *Reimbursement of city costs*. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.50 MAPPING DATA.

(A) *Information required*. Each registrant and permittee shall provide mapping information in a form required by the city in accordance with Minn. Rules 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the Director accurate maps and drawings certifying the "as-built" location of all equipment installed, owed, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the Director. Failure to provide maps and drawings pursuant to this division (A) shall be grounds for revoking the permit holder's registration.

(B) *Service laterals*.

(1) All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Director reasonably required it.

(2) Permittees or their subcontractors shall submit to the Director evidence satisfactory to the Director of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One-Call law and Minn. Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for:

(a) Payments to contractors working on a public improvement project including those under M.S. Ch. 429, as it may be amended from time to time; and

(b) City approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch. 462, as it may be amended from time to time. The Director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 760, passed 5-25-2006)

§ 90.51 UNDERGROUNDING.

(A) *Purpose*.

(1) The purpose of this section is to promote the health, safety, and general welfare of the public and is intended to foster:

(a) Safe travel over the right-of-way;

(b) Non-travel related safety around homes and buildings where overhead feeds are connected; and

(c) Orderly development in the city. Location and relocation, installation and reinstallation of facilities in the right-of-way must be made in accordance with this division (A).

(2) This section intended to be enforced consistently with state and federal law regulating right-of-way users, specifically including but not limited to M.S. §§ 161.45, 237.162, 237.163, 301B.01, 222.37, 238.084, and 216B.36, as they may be amended from time to time, and the Telecommunications Act of 1996, 47 U.S.C. § 253.

(B) *Undergrounding of facilities*. Facilities newly installed, constructed, or otherwise placed in the public right-of-way or in other public property held in common for public use must be located and maintained underground pursuant to the terms and conditions of this subchapter and in accordance with applicable construction standards, subject to the exceptions below. Above-ground installation,

construction, modification, or replacement of meters, gauges, transformers, street lighting, pad mount switches, capacitor banks, re-closers, and service connection pedestals shall be allowed. The requirements of this division (B) shall apply equally outside of the corporate limits of the city coincident with city jurisdiction of platting, subdivision regulations, or comprehensive planning as may now or in the future be allowed by law.

(C) *Exceptions to undergrounding*. The following exceptions to the strict application of this section shall be allowed upon the conditions stated.

(1) *Transmission lines*. Above-ground installation, construction, or placement of those facilities commonly referred to as "high voltage transmission lines" upon which a conductor's normal operating voltage equals or exceeds 23,000 volts (phase to phase) shall be allowed only by prior approval of the Council; provided, however, that 60 days prior to commencement of construction of such a project, the city shall be furnished notice of the proposed project and, upon request, the right-of-way user involved shall furnish all relevant information regarding such project to the city. This provision shall not be construed as waiving the requirements of any other ordinance or regulation of the city as the same may apply to any such proposed project.

(2) *Technical and economic feasibility*. Above-ground installation, construction, or placement of facilities shall be allowed in residential, commercial, and industrial areas where the Council, following consideration and recommendation by the Planning Commission, finds that:

(a) Underground placement would place an undue financial burden upon the landowner, ratepayers, or right-of-way user or would deprive the landowner of the preservation and enjoyment of substantial property rights; or

(b) Underground placement is impractical or not technically feasible due to topographical, sub-soil, or other existing conditions which adversely affect underground facilities placement.

(3) *Temporary service*. Above-ground installation, construction, or placement of temporary service lines shall only be allowed:

(a) During new construction of any project for a period not to exceed 24 months;

(b) During an emergency in order to safeguard lives or property within the city; and

(c) For a period of not more than 7 months when soil conditions make excavation impractical.

(D) *Undergrounding of permanent replacement, relocated, or reconstructed facilities*.

(a) If the city finds that 1 or more of the purposes set forth in division (A) above would be promoted, the city may require a permanent replacement, relocation, or reconstruction of a facility of more than 300 feet to be located, and maintained underground, with due regard for seasonal working conditions. For purposes of this subchapter, ***RECONSTRUCTION*** means any substantial repair of or any improvement to existing facilities.

(b) Undergrounding may be required whether a replacement, relocation, or reconstruction is initiated by the right-of-way user owning or operating the facilities, or by the city in connection with:

1. The present or future use by the city or other local government unit of the right-of-way or other public ground for a public project;

2. The public health or safety; or

3. The safety and convenience of travel over the right-of-way.

(E) *Retirement of overhead facilities*. The City Council may determine whether it is in the public interest that all facilities within the city, or facilities within certain districts designated by the city, be permanently placed and maintained underground by a date certain or target date, independently of undergrounding required pursuant to division (B) above (new facilities) and division (D) above (replacement facilities). The decision to underground must be preceded by a public hearing, after published notice and written notice to the utilities affected (2 weeks published: 30 days written.) At the hearing, the Council must consider items in division (G) below and make findings. Undergrounding may not take place until City Council has, after hearing and notice, adopted a plan containing items in division (H) below.

(F) *Public hearings*. A hearing must be open to the public and may be continued from time to time. At each hearing any person interested must be given an opportunity to be heard. The subject of the public hearings shall be the issue of whether facilities in the right-of-way in the city, or located within a certain district, shall all be located underground by a date certain. Hearings are not necessary for the undergrounding required under divisions (B) and (D) above.

(G) *Public hearing issues*.

(1) The issues to be addressed at the public hearings include, but are not limited to:

(a) The costs and benefits to the public of requiring the undergrounding of all facilities in the right-of-way;

(b) The feasibility and cost of undergrounding all facilities by a date certain as determined by the city and the affected utilities;

(c) The tariff requirements, procedure, and rate design for recovery or intended recovery of incremental costs for undergrounding by the utilities from ratepayers within the city; and

(d) Alternative financing options available if the city deems it in the public interest to require undergrounding by a date certain and deems it appropriate to participate in the cost otherwise borne by the ratepayers.

(2) Upon completion of the hearing or hearings, the City Council must make written findings on whether it is in the public interest to establish a plan under which all facilities will be underground, either city-wide or within districts designated by the city.

(H) *Undergrounding plan*.

(1) If the Council finds that it is in the public interest to underground all or substantially all facilities in the public right-of-way or in non-right-of-way public ground, the Council must establish a plan for such undergrounding.

(2) The plan for undergrounding must include at least the following elements:

(a) Timetable for the undergrounding;

(b) Designation of districts for the undergrounding unless the undergrounding plan is city- wide;

(c) Exceptions to the undergrounding requirement and procedure for establishing such exceptions;

(d) Procedures for the undergrounding process, including, but not limited to, coordination with city projects and provisions to ensure compliance with nondiscrimination requirements under the law;

(e) A financing plan for funding of the incremental costs if the city determines that it will finance some of the undergrounding costs, and a determination and verification of the claimed additional costs to underground incurred by the utility; and

(f) Penalties or other remedies for failure to comply with the undergrounding.

(I) *Facilities location*.

(1) (a) In addition to complying with the requirements of M.S. §§ 216D.01 through 216D.09, as they may be amended from to time ("One-Call Excavation Notice System"), before the start date of any right-of-way excavation, each registrant who has facilities located in the area to be excavated shall mark the horizontal placement of all said facilities.

(b) To the extent its records contain such information, each registrant shall provide information regarding the approximate vertical location of its facilities to excavators upon request.

(c) Nothing in this division (I) is meant to limit the rights, duties, and obligations of facility owners or excavators as set forth in M.S. §§ 216D.01 through 216D.09, as they may be amended from to time. Any right-of-way user whose facility 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 and mark the exact horizontal and vertical location of its facility and the best procedure for excavation.

(2) All facilities shall be placed in appropriate portions of right-of-way so as to cause minimum conflict with other underground facilities. When technically appropriate, all utilities shall be installed, constructed, or placed within the same trench.

(J) *Responsibility*. All owners, platters, or developers are responsible for complying with the requirements of this section, and prior to final approval of any plat or development plan, shall submit to the Director written instruments from the appropriate right-of-way users showing that all necessary arrangements with said users for installation of such facilities have been made.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.52 RELOCATION OF FACILITIES.

A right-of-way user shall promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way when it is necessary to prevent interference, and not merely for the convenience of the

city, in connection with:

(A) A present or future city use of the right-of-way for a public project;

(B) The public health or safety; or

(C) The safety and convenience of travel over the right-of-way.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.53 INTERFERENCE BY OTHER FACILITIES.

When the city does work in the right-of-way in its governmental right-of-way management function and finds it necessary to maintain, support, or move a registrant's facilities to carry out the work without damaging registrant's facilities, the city shall notify the local representative as early as is reasonably possible. The city costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.54 RIGHT-OF-WAY VACATION; RESERVATION OF RIGHT.

If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules 7819.3200.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.55 INDEMNIFICATION AND LIABILITY.

By registering with the city, or by accepting a permit under this subchapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules 7819.1250.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.56 ABANDONED AND UNUSABLE FACILITIES.

(A) *Discontinued operations*. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this subchapter have been lawfully assumed by another registrant.

(B) *Removal*. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.57 APPEAL.

(A) A right-of-way user that:

(1) Has been denied registration;

(2) Has been denied a permit;

(3) Has had permit revoked;

(4) Believes that the fees imposed are not in conformity with M.S. § 237.163, subd. 6, as it may be amended from time to time;

or

(5) Disputes a decision of the Director regarding the mapping data required by § 90.50 may have the denial, revocation, decision, or fee imposition reviewed, upon written request, go to the City Administrator.

(B) 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 will be in writing and supported by written findings establishing the reasonableness of the decision.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000; Ord. 760, passed 5-25-2006)

§ 90.58 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

(2013 Code, § 7.17) (Ord. 570, passed 8-24-2000)

§ 90.99 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(1) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, the person shall be punished as for a misdemeanor; where the person stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, the person shall be punished as for a misdemeanor.

(2) *Petty misdemeanor*. As to any violation not constituting a misdemeanor under the provisions of division (A)(1) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 7.99)

(B) Each day that any person continues in violation of § 90.08 shall be a separate offense, and punishable as such.

(2013 Code, § 7.08)

(Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 570, passed 8-24-2000)

CHAPTER 91: PARKS AND RECREATION

Section

§ 91.01 PARKS DEFINED.

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

PARK or ***PARKS***. A park, parkway, greenway, trail, playground, greenway, athletic field, swimming pool, recreation center, or other area in the city, owned, leased, or used, wholly or in part, by the city for recreational purposes and for such uses that are normally associated with parks.

(2013 Code, § 14.01) (Ord. 862, passed 12-27-2012)

§ 91.02 ACTIVITY SCHEDULED IN PARKS.

The city parks are intended for the benefit of all. To facilitate maximum, uniform and orderly usage of park facilities, the City Parks, Recreation, and Natural Resources Department is delegated as the agency to coordinate and schedule the use of park areas and facilities.

(2013 Code, § 14.02) (Ord. 862, passed 12-27-2012)

§ 91.03 REGULATIONS.

The following regulations shall apply to all city parks unless otherwise specified.

(A) *Speed laws*. It is unlawful for any person to operate a motor vehicle in any park at a speed in excess of 15 mph except an emergency vehicle.

(B) *Parking*. It is unlawful for any person other than park personnel to park any motor vehicle in any place in a public park except in designated areas or to operate any motor vehicle in any place except on established roads, driveways, or parking areas.

(C) *Hours*. It is unlawful for any person to be or remain in any park between the hours of 10:00 p.m. and 6:00 a.m. except those who, without delay, are traveling through the parks on established walks, paths, or streets, or are in activities that have been scheduled through the Parks, Recreation, and Natural Resources Department. Overnight parking in any park is prohibited without specific approval from the City Parks, Recreation, and Natural Resources Department or the City Police Department.

(D) *Camping*. No person shall set up tents, shacks, or any other temporary shelter, nor shall any person leave in any park after closing hours any movable structure or special vehicle such as a house trailer, camp trailer, camp wagon, or the like, without permission of the Parks, Recreation, and Natural Resources Department.

(E) *Building of fires*. It is unlawful for any person to light or make fires in any park except in places and in containers intended for such purposes. This division (E) does not apply to city employees engaged in cleaning, maintaining the areas, or special events.

(F) *Firearms or bow and arrows*. It is unlawful for any person or persons to discharge any firearm in a park without first securing specific approval from City Parks, Recreation, and Natural Resources Department and a permit from the Chief of Police. This division (F) shall not apply to the use of a bow and arrow in a range authorized by the Council.

(G) *Littering*. It is unlawful for any person to cast, deposit, throw, lay, place, or scatter any lighted or unlighted cigars or cigarettes, chewing gum, chewing gum wrappers, glass, bottles, cans, nails, wire, crockery, or other sharp or cutting substances, or any refuse matter of any kind anywhere, except in refuse containers provided for this purpose. Live charcoal coals and ashes shall be deposited only in containers designated for this purpose.

(H) *Swimming and bathing*. Swimming and bathing will be permitted only in designated and posted areas.

(I) *Dangerous games*. It is unlawful for any person to play any game dangerous to the welfare of other persons and property excepting in areas provided for this purpose.

(J) *Vandalism.* It is unlawful for any person to write upon, skate upon, mark, destroy, or otherwise deface in any way any property or thing pertaining to or in said parks. It is also unlawful for any person to paste or affix or inscribe any handbill or poster on any structure or property within any park or on any road or roadway adjacent thereto, or to break, cut, mutilate, injure, remove, or carry away any tree, plant, flower, shrub, rock, soil, or any other park property except in the case of city personnel engaged in maintenance and development thereof.

(K) *Control of pets*. Except as otherwise allowed in a city-approved off leash dog park, no pets shall be allowed in any park

except when they are under control on a leash or confined. It is unlawful for any person to ride a horse or other animal within a city park, or to disturb or interfere with any wildlife. The person having control of the leashed pet shall immediately remove any feces left by the pet. The person in control of the pet must have in their possession equipment for picking up and removing the feces.

(L) *Sales; solicitation; advertising*. It is unlawful for any person or persons other than city personnel to solicit, sell, or offer any article, product, or service in any park without a permit from City Parks, Recreation, and Natural Resources Department.

(M) *Tennis courts*. It is unlawful for any person to ride bicycles, scooters, skateboards, rollerblades/skates, or any other vehicle on the tennis court or drive them thereon or use the courts for any other purpose than playing tennis without specific permission from City Parks, Recreation and Natural Resources Department.

(N) *Ice skating rinks*. Ice hockey will only be permitted on rinks posted for hockey. No hockey sticks or pucks, sleds, or toboggans shall be allowed on any other park rink. No vehicles of any kind excepting those used by city personnel will be allowed on any skating area.

(O) *Alcoholic beverages*. It is unlawful for any person to serve, possess, or consume liquor except beer or wine (included in this exception is beer which contains in excess of 3.2% of alcohol by weight) in any area of a city park except in a picnic, grandstand, or shelter area or where permission has been specifically granted or licensed by the Council; to possess a beer keg or serve or consume beer from a beer keg unless a special permit has been obtained from the Parks, Recreation, and Natural Resources Department.

(P) *Wildlife*. It is unlawful for any person, except authorized city personnel, to kill, hunt, trap, pursue, catch, or remove any wildlife, other than fish, except as may be authorized through a permit.

(Q) *Structures*. It is unlawful for any person to construct or place any type of structure including but not limited to, trampolines, deer stands, ground blinds, playhouses, treehouses, temporary storage buildings, motorcycle or bicycle launches, temporary shelters, tents, or other such devices upon park land without a permit.

(R) *Encroachments*. It is unlawful for any person to encroach on park property with such items as fences, gardens, lawn/yard waste, other personal property, or to disturb the natural landscape, vegetation, or structures on park property or otherwise use park property for private use. All setbacks and other local zoning regulations are in effect and apply against properties adjacent to city parks as they would be against property adjacent to private property.

(S) *Golf*. It is unlawful for any person to drive, putt, or in any other manner, play or practice golf in a city park.

(T) *Parades and races*. For parades and races, see § 130.47.

(U) *Permits*.

(1) A permit shall be obtained from the City Parks, Recreation, and Natural Resources Department before participating in any organized activity.

(2) Some examples are the following Insurance requirements may apply.

(a) Carnivals;

(b) Community celebrations or events open to the public;

(c) Parades;

(d) Amplified or live music;

(e) Large barbeques (i.e., pig roasts);

(f) Dunk tanks;

(g) Weddings;

(h) Inflatables;

(i) Car shows;

(j) Contests and exhibitions, including, among other things, those that require exclusive use or charging admission; and

(k) Wildlife/animals.

(3) The proposed activity or use shall not be contrary to the policies and guidelines for community use of parks and recreation

rental facilities as determined by the City Parks, Recreation, and Natural Resources Department. This division (U) does not apply to city-run events.

(V) *Motorized vehicles*. It is unlawful for any person or persons to operate a motor vehicle in any area other than a street, roadway, or parking area; or operate any recreational motor vehicle in an area other than an area designated by the city. This division (V) does not apply to city employees engaged in cleaning or maintaining the areas.

(2013 Code, § 14.03) (Ord. 73, passed 9-10-1981; Ord. 202, passed 7-1-1986; Ord. 862, passed 12-27-2012) Penalty, see § 91.99

§ 91.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 14.99) (Ord. 73, passed 9-10-1981; Ord. 337, passed 7-23-1992)

TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: GENERAL LICENSING, PERMIT, AND INSPECTION PROCEDURES

Section

General Provisions

Taxicabs and Drivers

Tobacco, Tobacco Products, and Tobacco-Related Devices

GENERAL PROVISIONS

§ 110.001 DEFINITIONS.

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

APPLICATION. A form with blanks or spaces thereon, to be filled in and completed by the applicant as a request for a license, furnished by the city, and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

BOND. A corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

BUSINESS. Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this chapter.

LICENSE. A document issued by the city to an applicant permitting the applicant to carry on and transact a business.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

LICENSEE. An applicant who, pursuant to the licensee's application, holds a valid, current, unexpired, and unrevoked license from the city for carrying on a business.

SALE.SALE, ***SELL***, and ***SOLD*** mean all forms of barter and all manner or means of furnishing merchandise to persons.

(2013 Code, § 6.01) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 110.002 APPLICATIONS.

All applications shall be made as follows.

(A) *Form.* All applications shall be made at the office of the City Administrator upon forms that have been formulated by the city for such purposes.

(B) *Fee*. All initial applications shall be accompanied by a payment of a fee as prescribed by the most recent fee resolution to cover the cost of investigation as herein provided.

(C) *Contents*. All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

(1) Applicant's name and citizenship;

(2) Applicant's present address and length of time the applicant has lived at that address;

(3) Applicant's occupation and length of time so engaged;

(4) Applicant's addresses and occupations for the 3 years next preceding the date of application;

(5) Names and addresses of applicant's employers, if any, for the 3 years next preceding the date of application;

(6) Whether or not the applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense;

(7) Type of license and location of premises for which the application is made;

(8) At least 4 character references if the applicant has not resided in the city for 2 years next preceding the date of application; and

(9) Such other information as the Council shall deem necessary considering the nature of the business for which the license application is made.

(D) *False statements*. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this chapter, or any part hereof.

(E) *Investigation*. The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as the City Administrator deems necessary. For such investigation, the City Administrator may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

(F) *Renewals*. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

(2013 Code, § 6.02) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 393, passed 12-15-1994) Penalty, see § 110.999

§ 110.003 ACTION ON APPLICATION FOR LICENSE.

(A) *Granting*. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. The City Clerk may grant an application for the licensing of an individual who works in a business licensed as a pawnshop, precious metal dealer, or second-hand goods dealer. All applications, including proposed license periods, must be consistent with this chapter.

(B) *Issuance*.

(1) If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar-year basis beginning January 1 and ending December 31. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12 for each calendar month, or part thereof remaining in the then current license year.

(2) Licenses shall be valid only at 1 location and on the premises therein described. In order to effectuate the change in license year, the City Administrator is hereby authorized to credit the applicant for any unearned portion of a license fee, or charge a pro-rated amount only. No license shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or any financial claims of the city are owed by the applicant and are delinquent and unpaid.

(C) *Transfer*. A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (C).

(D) *Termination*. Licenses shall terminate only by expiration or revocation.

(E) *Refusal, suspension, and revocation*. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation or suspension of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

(F) *Duplicate license*. Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon the licensee's affidavit that the original has been lost, and upon payment of a fee of $2 for issuance of the duplicate. All duplicate licenses shall be clearly marked "DUPLICATE".

(2013 Code, § 6.03) (Ord. 1, passed 4-1-1978; Ord. 79, passed 11-26-1981; Ord. 444, passed 2-22-1996)

§ 110.004 CARRYING OR POSTING.

All transient merchants, peddlers, and solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity; provided, however, that in the case of machine or other device licensing, the city may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

(2013 Code, § 6.04) (Ord. 1, passed 4-1-1978)

§ 110.005 LICENSE REQUIRED.

It is unlawful for any person to knowingly permit any real property owned or controlled by that person to be used, without a license, for any business for which a license is required by this chapter.

(2013 Code, § 6.05) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.006 RESPONSIBILITY OF LICENSEE.

The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee.

(2013 Code, § 6.06) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 110.007 CONVICTION OF CRIME; DENIAL OF LICENSE.

A license may be denied to an applicant by the Council solely or in part due to a prior conviction of a crime by an applicant only upon a finding that such conviction directly relates to the occupation for which the license is sought, and then only after considering evidence of rehabilitation and such other evidence as may be presented, all in accordance with state statutes; provided, however, that an applicant must show that the applicant is presently fit to perform the occupation for which the license is sought.

(2013 Code, § 6.07) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 110.008 CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

(2013 Code, § 6.08) (Ord. 1, passed 4-1-1978)

§ 110.009 FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement; provided, that any such subdivision or categorization shall be included in the resolution authorized by this section.

(2013 Code, § 6.09) (Ord. 79, passed 11-26-1981)

§ 110.010 INSURANCE REQUIREMENTS.

Whenever insurance is required by a section of this chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk a policy or certificate of public liability insurance showing:

(A) The limits are at least as high as required;

(B) Coverage is effective for at least the license term approved; and

(C) Such insurance will not be canceled or terminated without 30 days' written notice served upon the City Clerk. Cancellation or termination of such coverage shall be grounds for license revocation.

(2013 Code, § 6.10) (Ord. 199, passed 7-10-1986)

§ 110.011 POSTING AND DISTRIBUTING PRINTED MATTER.

(A) *On public property*. It is unlawful for any person to post or leave printed matter upon streets or other public property, including utility poles.

(B) *On motor vehicles*. It is unlawful for any person to post, attach, or leave upon, any motor vehicle not owned by that person, any printed matter, without the permission of the owner or other person in control of such property.

(2013 Code, § 6.20) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.012 SCAVENGERS.

(A) *Scavenger defined*. ***SCAVENGER*** means a person, partnership, or corporation in the business of removing the contents or part of the contents of any privy, sink, satellite, vault, septic tank, grease, and sand trap, cesspool, or other similar facility.

(B) *Regulations*. It is unlawful for any person to follow or practice the occupation of scavenger or act as a scavenger within the city without strictly observing the following regulations.

(1) No discharge of waste from septic tanks or other similar facilities listed above shall be made in the city unless such discharge is made at a site previously approved by the Council, and the prescribed fee for such dumping or discharge paid to the city. The fee will be set from time to time by the Council. No discharge of any of the materials or substances listed in division (A) above shall be made into the city sewer system directly or indirectly at any time.

(2) No part of the contents of any such sanitary sewage facility shall be transported into and deposited within the city, nor shall the contents of any such facility be transported within or throughout the city unless it is removed and transported by means of an air-tight apparatus, pneumatic, or otherwise, so as to prevent the contents from being agitated or exposed to open air in the process of removal or transportation.

(3) Any tank, vehicle, or other apparatus used in the transporting of the contents from any such facility must be maintained and operated in such a manner as to avoid the emission of offensive fumes or the spilling or loss of any unsanitary offensive substance.

(4) It is unlawful for any person to cause or permit any vehicle used for scavenger hauling to stand or remain at or near any public building or any residence or apartment, upon any street, highway, or other public place for any longer period of time than is actually required in the loading, conveying and unloading of the contents thereof.

(5) Any person, partnership, or corporation violating any of the provisions hereof shall pay for any damages to the city sewer system as a result of the discharge of any of the materials above enumerated and for any of the maintenance cost in removing or flushing those materials out of the pipe and sewer system.

(2013 Code, § 6.43) (Ord. 16, passed 1-25-1978; Ord. 88, passed 2-25-1982) Penalty, see § 110.999

§ 110.013 LODGING TAX.

(A) *Local lodging tax adopted.*

(1) The Council hereby imposes a lodging tax of 3% on the gross receipts obtained from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, except where such facilities are leased or rented for a continuous period of 30 days or more.

(2) Bed and breakfast inns are not subject to this tax.

(B) *Report and payment of tax.*

(1) Any person subject to the lodging tax imposed hereby shall report the gross receipts hereinbefore referred to the city within 15 days of the end of the month when collected and said report shall be accompanied by payment in full.

(2) If the report and payment of the tax is not made within 15 days as herein provided, an automatic fine of $100 is hereby imposed in addition to the tax and which is to be paid when the tax is paid.

(C) *Records preserved for inspection.* Complete records of all such gross receipts, collections, and remittances shall be preserved for a period of 1 year and shall during said year be open to inspection and audit by the city.

(D) *Collection authorized.* In addition to any other penalty, the city may collect by legal action, any delinquent tax, plus 6% interest thereon and the cost of collection, including reasonable attorney's fees.

(E) *Disposition of proceeds.* Ninety-five percent of the gross proceeds from the tax imposed hereby shall be used by the city to fund a local convention or tourist bureau for the purpose of marketing and promoting the city as a tourist or convention center and 5% shall be used for the administration of this section.

(2013 Code, § 6.44) (Ord. 212, passed 1-15-1987; Ord. 216, passed 4-23-1987; Ord. 269, passed 8-11-1989; Ord. 283, passed 8-17-1990; Ord. 349, passed 12-15-1992; Ord. 370, passed 2-10-1994; Ord. 441, passed 12-28-1995)

TAXICABS AND DRIVERS

§ 110.025 DEFINITIONS.

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

RATE CARD. A card issued by the city for display in each taxicab which contains the rates of fare then in force.

TAXICAB. A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of no more

than 7 passengers, and not operated on a fixed route. Also, it may include the carrying of small parcels and packages.

TAXIMETER. A meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.026 TAXICAB LICENSE REQUIRED.

(A) It is unlawful for any person to operate or permit a taxicab owned or controlled by that person to be operated as a vehicle for hire upon the streets of the city without having first obtained a license from the city, except as otherwise permitted under this subchapter.

(B) Any taxicab license to operate in another political subdivision of this state may carry passengers to any place or point within the city, but neither the owner nor operator of such vehicle shall be permitted to solicit or pick up business within the city except:

(1) Where a return trip to the political subdivision in which the taxicab is licensed has been previously arranged; or

(2) When a taxicab is called into the city by a fare that wishes to be taken to a political subdivision in which the taxicab is licensed. The Minneapolis-St. Paul International Airport - Wold Chamberlain Field - shall be deemed a political subdivision for the purposes of this subchapter.

(C) There shall be a presumption that the owner or operator of any taxicab not licensed in the city who carries or picks up passengers within the city is operating in violation of this subchapter, and the burden shall be upon the owner or operator of such taxicab to prove that the activities in question are permitted under the exceptions provided in division (B) above.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.027 APPLICATION FOR TAXICAB LICENSE.

Applications shall be filed with the City Clerk upon forms provided, and said application shall furnish the following:

(A) The name, date of birth, and address of the applicant;

(B) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgment;

(C) The experience of the applicant in the transportation of passengers;

(D) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a license;

(E) The number of vehicles to be operated or controlled by the applicant, the location of proposed depots and terminals, the owner of said vehicles, and the license number of each vehicle;

(F) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;

(G) A statement signed by the applicant indicating the applicant's understanding that falsification of any item on the application is sufficient reason upon which to base a denial of said license or termination thereof; and

(H) Such further information as the Council may require.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.028 PUBLIC HEARING.

Upon the filing of an initial application, the City Clerk shall set a time and place for a public hearing before the Council. Notice of such hearing shall be given to the applicant and to all licensees. Due notice shall be given in the legal newspaper at least 10 days prior to such hearing. No public hearing is required for renewal license applications.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992; Ord. 828, passed 12-24-

2009)

§ 110.029 ISSUANCE OF TAXICAB LICENSES.

(A) If the Council finds that further taxicab service in the city is desirable for the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, the Council shall grant a license stating the name and address of the applicant and the number of vehicles authorized under said license; otherwise, the application shall be denied.

(B) In making the above findings, the Council shall take into consideration the number of taxicabs already in operation.

(C) The city shall issue a numbered identification tag which shall be displayed upon the rear exterior of each licensed vehicle at all times during the license period.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.030 BOND OF INSURANCE.

(A) (1) No license shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of $100,000 for bodily injury to any 1 person, in the amount of $300,000 for injuries to more than 1 person which are sustained in the same accident, and $50,000 for property damage resulting from any 1 accident.

(2) Said insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, the holder's servant, or agents.

(3) Notwithstanding any other provision of this chapter, the insurance coverage need not extend for the exact term of the license if the applicant or licensee also operates similar service in other cities.

(B) The Council may, in its discretion, allow the holder to file in lieu of an insurance policy a bond or bonds issued by a surety company authorized to do business in the state.

(C) If the applicant for a license under this subchapter had qualified as a self-insurer under M.S. § 65B.48, as it may be amended from time to time, and has filed with the City Clerk a certified copy or a duplicate original of the self-insurance certificate issued by the State Commissioner of Highways, then no policy of insurance or surety bond shall be required to be filed with the city.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.031 TAXICAB LICENSE FEE.

No license shall be issued or continued in operation unless the holder thereof has paid the annual license fee as prescribed by resolution.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.032 TRANSFERABILITY.

(A) No license may be transferred.

(B) Any sale, assignment, or mortgage of a taxicab shall be reported to the City Clerk.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.033 SUSPENSION, REVOCATION, AND ADMINISTRATIVE PENALTIES OF TAXICAB LICENSE.

(A) A license issued under the provisions of this subchapter may be revoked or suspended by the Council in accordance with the procedures outlined if the holder thereof has violated any of the provisions of this subchapter; discontinued operations for more than 60

days; or has violated any provisions of this code of ordinances or any law of the United States or state, which violation reflects unfavorable on the fitness of the holder to offer public transportation.

(B) (1) Any taxicab licensee who violates any part of this subchapter or whose taxicab driver violates any part of this subchapter, the said taxicab licensee shall be penalized as follows:

(a) *First incident*: $200 fine, plus a 2-day license suspension;

(b) *Second incident within 36 months of the first incident*: $500 fine, plus a 5-day license suspension; and

(c) *Third or subsequent incident within 36 months of first incident*: $1,000 fine, plus a 30- day license suspension or revocation.

(2) Any revoked license shall not be eligible for reinstatement for at least 30 days after the effective date of the revocation.

(C) All multiple-day license suspensions shall run consecutively beginning at 12:01 a.m. on the first day of the suspension period and ending at midnight on the last day of the suspension period.

(D) No suspension or revocation shall be imposed by either the City Council or the City Administrator until the licensee has been afforded an opportunity for a hearing in accordance with § 110.003(E).

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992; Ord. passed 812, 2-12-2009)

§ 110.034 TAXICAB DRIVER'S LICENSE.

(A) *Taxicab driver's license*. It is unlawful for any person to operate a taxicab for hire upon the streets of the city and it is also unlawful for any person who owns or controls a taxicab to permit it to be so driven unless the driver of said taxicab has a current and valid taxicab driver's license issued under the provisions of this subchapter.

(B) *Application for driver's license*.

(1) Application for a taxicab driver's license shall be filed with the City Clerk on forms provided which shall contain the following:

(a) The names and addresses of 2 residents of the state who have known the applicant for a period of not less than 2 years and who will vouch for the sobriety, honesty, and general good character of the applicant;

(b) The experience of the applicant in the transportation of passengers and a listing of all previous employment in transporting persons, if any;

(c) The educational background of the applicant;

(d) A history of employment for the past 10 years;

(e) Age and date and place of birth; and

(f) Home address.

(2) Each application shall include:

(a) A certificate from a physician licensed by the state that, in the physician's opinion, the applicant is not afflicted with any disease or infirmity which might make the applicant an unsafe or unsatisfactory driver; or

(b) A copy of a current D.O.T. medical card.

(3) At the time of the application, the applicant shall pay the city the sum prescribed by resolution.

(C) *State driver's license required*. The applicant must have a valid state driver's license. In no event shall a license be issued to a person under 18 years of age. The state driver's license shall reflect the applicant's current home address.

(D) *Investigation of applicant*. The Police Department shall conduct an investigation of each applicant, and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the City Clerk.

(E) *Issuance of driver's license*. The issuing authority upon consideration of the application and the reports attached thereto shall approve or reject the application.

(1) If the application is rejected, the applicant may request a personal appearance before the Council to offer evidence why the application should be reconsidered.

(2) If the application is approved, the issuing authority shall issue a license to the applicant which shall bear the name, address, age, signature, and photograph of the applicant.

(3) Such license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall be issued upon payment of $25 unless the license for the preceding year has been revoked.

(F) *Grounds for denial of driver's license*.

(1) The issuing authority shall not issue a taxicab driver's license to anyone who has had their driving privileges suspended, revoked, or canceled within 1 year of the date of application.

(2) The issuing authority, and the Council upon appeal, may take the applicant's driving record into account in approving the license; and if it is found that the person is an habitually reckless or negligent driver or an habitual violator of the traffic laws, the issuing authority or Council may deny issuance of the license or renewal.

(3) Falsification of an application for a taxicab driver's license constitutes grounds for denial of the license or renewal.

(4) No license shall be issued to an applicant who has been convicted of any crime or crimes directly related to the occupation of taxicab driver, as defined by M.S. 364.03, subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation of taxicab driver, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time.

(G) *Display of driver's license*. Every driver licensed under this subchapter shall keep the city-issued license in full view of all passengers while such driver is operating a taxicab.

(H) *Suspension and revocation of driver's license*. The Council may suspend any driver's license issued under this subchapter in accordance with the procedures outlined in this code of ordinances for the licensee's failure or refusal to comply with the provisions of this chapter or other applicable state or federal law.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992; Ord. 851, passed 12-29-2011) Penalty, see § 110.999

§ 110.035 VEHICLE INSPECTION.

Prior to use and operation of any vehicle under the provisions of this subchapter, said vehicle shall be thoroughly examined and inspected by an inspection service authorized by the Police Department. Subsequent inspections will be required not less than once every 365 days. The intent of such inspection is to ensure compliance with all applicable safety requirements of the state and any rules established by this code of ordinances or the Police Department.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992; Ord. 811, passed 12-24-2008)

§ 110.036 TAXIMETER REQUIRED.

(A) (1) All taxicabs shall be equipped with taximeters which are visible to passengers at all times.

(2) After sundown, the face of the taximeter shall be illuminated. It shall be operated mechanically by a mechanism of standard design and construction, driven either from the transmission, or from 1 of the front wheels by a flexible and permanently attached driving mechanism. It shall be sealed at all points and connections where manipulation would affect correct reading and recording.

(B) (1) Each taximeter shall have thereon a flag to denote when the vehicle is employed or not employed. It shall be the duty of the driver to throw the flag into a non-recording position at the termination of each trip. Any inspector or other officer of the Police Department is hereby authorized to inspect any meter with or without complaint of any person.

(2) Upon discovery of any inaccuracy therein, the person operating said taxicab shall be notified to cease operation; and said taxicab shall be kept off the highways until the taximeter is repaired and in the required working condition.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.037 RATE SCHEDULE AND CARDS.

(A) Prior to issuance of a taxicab license, the applicant shall submit the applicant's rate schedule to the City Administrator. These rates shall be uniform to all passengers. Any increases in the rates shall be filed with the City Administrator.

(B) Every taxicab operated under this subchapter shall have a rate card setting forth the authorized rates of fare which shall be displayed in such a place as to be in view of all passengers.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992; Ord. 812, passed 2-12-2009)

§ 110.038 RECEIPTS.

The driver of any taxicab shall, upon demand by the passenger, render a receipt for the amount charged on which shall be the name of the owner, the license or motor number, the amount of the meter reading or charges, and the date of the transaction.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.039 REFUSAL TO PAY LEGAL FEES.

It is unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this subchapter after having hired the same, and it is unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.040 RECEIPT AND DISCHARGE OF PASSENGERS.

Drivers of taxicabs shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand sidewalk as nearly as possible or in the absence of a sidewalk to the extreme right-hand side of the road and there receive or discharge passengers. On 1-way streets, passengers may be received or discharged at either the right or left-hand sidewalk or on the side of the roadway in the absence of a sidewalk. In addition, persons may be received or discharged on private property.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.041 NUMBER OF PASSENGERS.

No more than 2 persons in addition to the driver shall be carried in the front seat of any taxicab; and no more than a total number of 7 passengers, excluding the driver, shall be carried in any taxicab.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.042 REFUSAL TO CARRY PASSENGERS.

No driver shall refuse or neglect to convey any orderly person or persons upon request, unless previously engaged or unable or forbidden by the provisions of this subchapter to do so.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

§ 110.043 MANIFESTS.

Every driver shall maintain a daily manifest upon which are recorded all trips made each day showing the time and place of origin, the destination of each trip, and the amount of fare. All completed manifests shall be returned to the owner by the driver at the conclusion of the driver's tour of duty. All manifests shall be available to the City Clerk and the Police Department. Every holder of a license shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year.

(2013 Code, § 6.22) (Ord. 147, passed 6-14-1984; Ord. 199, passed 7-10-1986; Ord. 337, passed 7-23-1992)

TOBACCO, TOBACCO PRODUCTS, AND TOBACCO-RELATED DEVICES

§ 110.055 PURPOSE.

(A) (1) The city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and such sales, possession, and use are violations of both state and federal laws.

(2) Studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking.

(3) Smoking has been shown to be the cause of several serious health problems that place a financial burden on all levels of government.

(B) This subchapter is intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and furthering existing laws; to protect minors against the serious effects associated with the use of tobacco, tobacco products, and tobacco-related devices; and to further the official public policy of the state in regard to preventing young people from starting to smoke, as stated in M.S. § 144.391, as it may be amended from time to time.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998; Ord. 841, passed 12-30-2010)

§ 110.056 DEFINITIONS AND INTERPRETATIONS.

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

COMPLIANCE CHECKS. The system used by the city or any other jurisdiction to investigate and ensure that those licensed to sell tobacco, tobacco products, and tobacco-related devices are complying with the requirements of this subchapter or any state or federal law or regulation. ***COMPLIANCE CHECKS*** shall involve the use of minors as authorized by this subchapter or state law. ***COMPLIANCE CHECKS*** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, and tobacco-related devices for educational, research, and training purposes as authorized by state or federal law.

INDIVIDUALLY PACKAGED. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, multi-packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered ***INDIVIDUALLY PACKAGED***.

LOOSIES. A single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of 18 years.

MOVEABLE PLACE OF BUSINESS. Any business operated out of a truck, van, automobile, cart, or other vehicle or transportable shelter and not at a fixed address, store front, or other permanent structure authorized for sales transactions.

RETAIL ESTABLISHMENT. Any place of business in which tobacco, tobacco products, and tobacco-related devices are available for sale to the general public, including, but not be limited to, grocery stores, convenience stores, gas stations, and restaurants.

SALE. Any transfer of goods for money, trade, barter, or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products, or tobacco- related devices in any manner in which any person may have access to the tobacco, tobacco products, and tobacco-related devices without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention must entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. ***SELF-SERVICE MERCHANDISING*** does not include vending machines.

TOBACCO or ***TOBACCO PRODUCTS.*** Cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. The term ***TOBACCO*** excludes any tobacco product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

TOBACCO-RELATED DEVICES. Cigarette papers or pipes for smoking.

VENDING MACHINE. Any mechanical, electric, or electronic, or other type of device that dispenses tobacco, tobacco products, and tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine and includes any such device equipped with mechanical, electric, or electronic-locking devices.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998)

§ 110.057 LICENSE.

No person may sell or offer to sell any tobacco, tobacco products, or tobacco-related devices without first having obtained a license to do so from the city in compliance with this subchapter.

(A) *Application*. An application for a license to sell tobacco, tobacco products, and tobacco-related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council. If the City Clerk determines that an application is incomplete, the City Clerk shall return the application to the applicant with notice of the information necessary to make the application complete.

(B) *Action*. The City Council may either approve or deny the license, or it may defray action for such reasonable period of time as may be necessary to complete any investigation of the application or the applicant. If the City Council approves the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to obtain judicial review of the City Council's decision.

(C) *Term.* Each license will be issued for a period of 1 calendar year. If the application is made during the license year, a license may be issued for the remainder of the licensed year on a pro rata basis. Any unexpired fraction of a month shall be counted as a complete month. Every license expires on December 31 of the license year.

(D) *Revocation or suspension*. Any license issued may be revoked or suspended as provided for in this subchapter.

(E) *Transfers*. A license is valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

(F) *Moveable place of business.* No license may be issued to a moveable place of business. Only fixed location businesses are eligible to be licensed under this subchapter.

(G) *Display*. All licenses must be posted and displayed in plain view of the general public on the licensed premises.

(H) *Renewals*. The renewal of a license issued under this subchapter shall be handled in the same manner as the original application. The request for a renewal shall be made by the licensee at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this subchapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the licensee to an automatic renewal of the license.

(I) *Fees*. No license shall be issued under this subchapter until the appropriate license fee has been paid in full.

(J) *Instructional program.*

(1) No person shall be issued a license or renewal license to sell tobacco, tobacco products, and tobacco-related devices unless an applicant or license holder has an approved program for instructing all employees regarding the legal requirements pertaining to the sale of tobacco, tobacco products, and tobacco-related devices at the business premises for which the license was issued. The instructional program shall include, but is not limited to, reviewing the law on the sale of tobacco-related products and the law regarding the requirement of purchasers to establish proof of age.

(2) No license shall be issued unless the applicant or license holder signs a form attesting that each employee of the applicant or license holder has received training and instruction on the sale of tobacco, tobacco products, and tobacco-related devices and the date such training occurred. The training shall include information that the sale of such products to minors is illegal, explanation of what proof of age is legally acceptable, and that a sale to a minor can subject the applicant or license holder and their employees to criminal and civil liability.

(K) *Sale by minors*. No minor may furnish, sell, or attempt to sell tobacco, tobacco products, and tobacco-related devices unless written consent has been obtained from the minor's parents. Such written consent must include a statement of the potential penalties that can be imposed under this subchapter.

(L) *Proof of age*. Any sale of tobacco, tobacco products, and tobacco-related devices shall not take place unless the licensee requires any purchaser who appears to be under the age of 27 to establish proof of age by 1 of the methods established by state law for the purchase of alcoholic beverages.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998; Ord. 527, passed 9-24-1998) Penalty, see § 110.999

§ 110.058 BASIS FOR DENIAL OF LICENSE.

(A) If a license is mistakenly issued or renewed to a person, it may be revoked upon the discovery that the person was ineligible for the license under this subchapter.

(B) The following shall be grounds for denying the issuance or renewal of a license under this subchapter:

(1) The applicant is under the age of 18 years;

(2) The applicant has been convicted within the past 5 years of any violation of a federal, state, or local law, or other regulation relating to tobacco, tobacco products, and tobacco-related devices;

(3) The applicant has had a license to sell tobacco, tobacco products, and tobacco-related devices revoked within the 12 months preceding 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 has outstanding fines, penalties, fees or taxes owed to the city, City Public Utilities Commission, county, or state; or

(6) The applicant is prohibited by federal, state, or local law or other regulation from holding a license.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998)

§ 110.059 PROHIBITED SALES.

It shall be a violation of this subchapter for any person to furnish, sell, or offer to sell tobacco, tobacco products, and tobacco-related devices as follows:

(A) To any minor;

(B) By means of a vending machine;

(C) By means of self-service merchandising;

(D) By means of loosies;

(E) Containing opium, morphine, jimson weed, belladonna, 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; or

(F) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or local law, or other regulation.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998) Penalty, see § 110.999

§ 110.060 VENDING MACHINES.

It shall be unlawful for a licensee to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998) Penalty, see § 110.999

§ 110.061 SELF-SERVICE MERCHANDISING.

It shall be unlawful for a licensee to allow the sale of tobacco, tobacco products, and tobacco-related devices through self-service merchandising. All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers without the intervention of a store employee. This subchapter shall not apply to retail stores that derive at least 90% of their revenue from tobacco, tobacco products, or tobacco-related devices, and where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998; Ord. 542, passed 3-25-1999; Ord. 841, passed 12-30-2010) Penalty, see § 110.999

§ 110.062 RESPONSIBILITY.

All licensees 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. The sale of any such item by an employee shall be considered a sale by the license holder and shall subject the license holder to the penalties set forth in this subchapter. Nothing in this subchapter shall be construed as prohibiting the City Council from also subjecting the employee to appropriate penalties under this code, state, or federal law, or other applicable law or regulation.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998) Penalty, see § 110.999

§ 110.063 COMPLIANCE CHECKS AND INSPECTIONS.

(A) 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 minors over the age of 15 years to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks must have the written consent of their parents or guardians and shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when such items are obtained as a part of the compliance check.

(B) (1) No minor engaged in a compliance check shall use or attempt to use false identification to misrepresent the minor's age.

(2) Minors engaged in a compliance check shall answer truthfully all questions about the minor's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which minor is asked.

(3) Nothing in this subchapter shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998)

§ 110.064 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this subchapter:

(A) *Sales*. For any person to sell or attempt to sell or furnish any tobacco, tobacco product, or tobacco-related device to any minor;

(B) *Possession*. For any minor to have in minor's possession any tobacco, tobacco product, or tobacco-related device, excluding any minor lawfully involved in a compliance check;

(C) *Use*. For any minor to smoke, chew, sniff, or otherwise use or ingest any tobacco, tobacco product, or tobacco-related device;

(D) *Procurement*. For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device; for any person to purchase or otherwise obtain any such item on behalf of a minor; or for any person to coerce or attempt to coerce a minor to purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device in a manner contrary to law, excluding any minor lawfully involved in a compliance check;

(E) *Use of false identification*. For any minor to attempt to disguise minor's true age by the use of a false form of identification, whether the identification is that of another person or 1 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; and

(F) *Sampling*. For any person to light or smoke tobacco or a tobacco product in a licensed establishment for any purpose, including, but not limited to, the purpose of allowing a customer or potential customer to sample tobacco or a tobacco product, except for the sampling of an electronic delivery device as defined in M.S. § 609.685, subd. 1, as it may be amended from time to time.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998; Ord. 841, passed 12-30-2010; Ord. 890, passed 8-19-2014) Penalty, see § 110.999

§ 110.065 VIOLATIONS.

(A) *Notice*. The city shall issue a notice of violation to any licensee or individual suspected of violating any provision of this subchapter. The notice of violation shall be served personally or by mail. The notice shall contain the alleged violation and a statement concerning the right to a hearing.

(B) *Hearing*. If a person accused of violating this subchapter so requests, a hearing shall be scheduled before a hearing officer at a time and place which shall be published and provided to the accused violator.

(C) *Hearing Officer*. The City Council shall serve as the Hearing Officer in any hearing requested under this subchapter.

(D) *Decision*. Following the hearing, if the City Council determines by a preponderance of the evidence that a violation of this subchapter occurred, that decision, along with the City Council's reasons for finding a violation and the administrative penalty to be imposed under § 110.999(C), shall be recorded in writing, a copy of which shall be provided to the violator. If the City Council finds that no violation occurred, such finding shall be recorded and a copy provided to the licensee.

(E) *Judicial review*. Any final decision by the City Council under this subchapter may be reviewed in the manner and procedure authorized by state law.

(F) *Prosecution*. Nothing in this subchapter shall prohibit the city from seeking prosecution for any alleged violation.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998) Penalty, see § 110.999

§ 110.066 EXCEPTIONS AND DEFENSES.

Nothing in this subchapter shall prevent the providing of tobacco, tobacco products, or tobacco- related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to a charge of violating this subchapter that the licensee or an employee of the licensee relied in good faith on proof of age in the manner required by state law for the purchase of alcoholic beverages.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998)

§ 110.067 AMENDMENT.

The City Clerk shall make reasonable efforts to send the County Community Health Services and all tobacco retailers 30 days'

mailed notice of the city's intention to consider a substantial amendment to this subchapter.

(2013 Code, § 6.23) (Ord. 519, passed 7-2-1998; Ord. 527, passed 9-24-1998; Ord. 542, passed 3-25-1999)

FAIRS, CARNIVALS, CIRCUSES, SHOWS, AND SIMILAR ENTERPRISES

§ 110.080 DEFINITIONS.

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

AMUSEMENT DEVICES. Any equipment or piece of equipment, appliance, or combination thereof designed or intended to entertain or amuse the public at an event covered by this subchapter.

AMUSEMENT RIDE. Any mechanized device or combination of devices which carry passengers along the ground or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement at an event covered by this subchapter.

BUILDING OFFICIAL. A principal Building Official of the city who is duly certified by the state.

BOOTH. Any structure or enclosure located at an event covered by this subchapter from which amusement and/or services, souvenirs, food, or other commerce items are offered to the public or displayed.

CARNIVAL-CIRCUS. A traveling commercial entertainment with sideshows, rides, and games.

FAIR. A festival where there is entertainment and things are exhibited and sold.

OPERATOR. A corporation, person, association of persons, or the agent of the same who either owns or controls or has the duty to control the operation of amusement device or ride, concession booth, or related electrical equipment at all events covered by this subchapter, including an agency of the state or any of its political subdivisions.

RELATED ELECTRICAL EQUIPMENT. Any electrical apparatus or wiring combination thereof used at an event covered by this subchapter.

SHOW. A presentation of entertainment, theatricals, concerts, displays, and exhibitions.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.081 GENERAL LICENSE REQUIRED.

(A) *Generally*. It is unlawful for any person to present or operate within the city an event covered by this subchapter without first having obtained a license therefor from the city and paying a fee therefor as set from time to time by the Council by resolution.

(B) *Condition of license*. No license shall be issued until the proper application has been completed, the fee or fees paid, and, where applicable, insurance provided. A copy of all insurance policies or certificates must be deposited with the city and must contain a provision that the city will be notified in writing at least 10 days in advance of any cancellation or change in such coverage.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.082 ELECTRICAL PERMIT REQUIRED.

(A) *Generally*. No amusement device or ride, concession booth, or any related electrical equipment shall be operated at any event covered hereby in the city without an electric permit having been issued in addition to the general license, permitting the operation of such device or equipment.

(B) *Application*. Prior to the operation of any device covered by this division (B), the person required to obtain a permit shall apply to the city for a permit on a form furnished by the city, which form shall contain such information as the city may require.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.083 INSPECTION REQUIRED.

(A) For the purpose of determining if an amusement ride, device, concession booth, or any related electrical equipment covered by this subchapter is in safe operating condition and will provide protection to the public using the same, said equipment and ride shall be inspected by the city before it is initially placed in operation.

(B) If, after inspection, an amusement device or ride, concession booth, or related electrical equipment is found to comply with the rules adopted hereby, the city shall upon payment of the fee (plus an inspection fee) permit the operation of the device.

(C) Additions or alterations that would change the structure, mechanism, classification, or capacity of said amusement ride, concession booth, or related electrical equipment, shall not be permitted unless approved in writing by the city.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.084 RULES.

(A) The city may adopt and issue rules for the safe installation, repair, maintenance, use, operation, and inspection of amusement devices, amusement rides, concession booths, and related electrical equipment at all enterprises covered hereby. Rules shall be adopted by resolution and shall be based upon generally accepted engineering standards and shall be concerned with, but not necessarily limited to, engineering force stresses, safety devices, and preventive maintenance.

(B) Whenever such standards from manufacturers are available in suitable form, they may be incorporated by reference. The rules shall provide for the reporting of accidents and injuries incurred from or as the result of the operation of amusement devices or rides, concession booths, or related electrical equipment. These rules may be modified or repealed at any time by resolution.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.085 CESSATION ORDER.

(A) The Building Official may order in writing a temporary cessation or operation of any amusement device or ride, concession booth, or related electrical equipment covered herein if it has been determined after inspection to be hazardous or unsafe.

(B) The operation of such amusement device, ride, concession booth, or related electrical equipment shall not be resumed until the unsafe or hazardous conditions have been corrected to the satisfaction of the city and the cessation order lifted by written order.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.086 INSURANCE.

(A) *Generally*. No person, firm, or corporation shall be issued a license hereunder unless the applicant first obtains an insurance policy in an amount not less than $300,000 for bodily injury to or death of 1 person in any 1 accident, and, subject to the limit for 1 person, in the amount of not less than $500,000 for bodily injury or death of 2 or more persons in any 1 accident; and in an amount of not less than $5,000 for injury to or destruction of property of others in any 1 accident, insuring the operator against liability for injury or death suffered by a person attending the fair, carnival or amusement park.

(B) *Products liability insurance*. The applicant shall provide products liability insurance in the amounts provided in division (A) above, if any food or drink is served upon the premises.

(C) *Notice of cancellation*. All policies or insurance certificates required hereunder and hereby must be deposited with the city and each such policy or certificate shall contain a provision that the city will be notified in writing at least 10 days in advance of any cancellation or change in the coverage of the insured.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.087 EXEMPTIONS.

The following amusement devices, rides, or concession booths are exempt from the provisions of this subchapter:

(A) Permanent amusement parks, permanent theme parks, or ski lifts;

(B) Non-mechanized playground equipment including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located;

(C) A concession booth, amusement device, or ride which is owned and operated by a nonprofit, religious, educational, or charitable institution, or association, if such booth, device, or ride is located within a building subject to inspection by the State Fire Marshal or by any political subdivision of the state under its building, fire, electrical, and related public safety ordinances;

(D) The city may exempt amusement devices from the provisions of this subchapter that have self-contained wiring installed by the manufacturer, that are operated manually by the use of hands or feet, that operate on less than 120 volts of electrical power, and that are fixtures within or a part of a structure subject to the Building Code of this state or any political subdivision of this state; and

(E) The city may exempt playground equipment owned, maintained, and operated by any political subdivision of the state.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.088 WAIVER OF INSPECTION.

The city may waive the requirement that an amusement device, ride, or any part thereof, be inspected before being operated in the city, if any operator gives satisfactory proof to the city that the amusement device, ride, or any part thereof has passed an inspection conducted by a public or private agency whose inspection standards and requirements are at least equal to those requirements and standards established by the city under the provisions hereof, but the license fee shall be paid before the city may waive this requirement.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.089 VIOLATIONS.

(A) It is unlawful for any person to operate an amusement device, ride, concession booth, or related electrical equipment at any enterprise covered hereby without first having obtained a permit from the city, or to violate any provision hereof.

(B) It is unlawful for any person to interfere with, impede, or obstruct, in any manner, the city or any authorized representative of the Inspection Department in the performance of duties under this subchapter. It is unlawful for any person to bribe or attempt to bribe the Inspector or the Inspector's designee.

(2013 Code, § 6.24) (Ord. 85, passed 3-4-1982; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

BLEACHERS AND REVIEWING STANDS

§ 110.100 DEFINITIONS.

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

BLEACHERS. Seating facilities without backrests in which less than 3 square feet is assigned per person for computing the occupant load.

REVIEWING STANDS. Elevated platforms accommodating not more than 50 persons. Seating facilities, if provided, are normally in the nature of loose chairs. ***REVIEWING STANDS*** accommodating more than 50 persons shall be regulated as grandstands.

(2013 Code, § 6.25) (Ord. 1, passed 4-1-1978)

§ 110.101 INSPECTION REQUIRED.

It is unlawful for bleachers or reviewing stands to be used or operated unless they have been inspected and have a current inspection certificate issued by the city attached to them.

(2013 Code, § 6.25) (Ord. 1, passed 4-1-1978) Penalty, see § 110.999

§ 110.102 INSPECTION; CERTIFICATE AND FEE.

(A) *Inspection generally*. All bleachers or reviewing stands shall be inspected annually by the city before May 1 of each year for permanent facilities or before they are used or occupied for temporary reviewing stands or bleachers.

(B) *Inspection certificate*.

(1) Each reviewing stand or bleacher shall have affixed to it a current inspection certificate issued annually for permanent facilities or after an inspection for temporary facilities issued by the City Building Official.

(2) No inspection certificate shall be issued unless the reviewing stand or bleacher meets all the appropriate standards set forth in the Uniform Building Code.

(C) *Inspection fee*. There shall be a fee of $5 per seating section charged for each inspection of reviewing stands or bleachers with a maximum inspection fee of $50 for each facility.

(2013 Code, § 6.25) (Ord. 1, passed 4-1-1978)

SKI LIFTS, AMUSEMENT RIDES, AND AMUSEMENT ATTRACTIONS

§ 110.115 DEFINITIONS AND INTERPRETATIONS.

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

AMUSEMENT ATTRACTION. Any building or structure around, over, or through which people may move, walk, slide, or ride without the aid of any moving device integral to the building or structure, whose principal purpose is to provide amusement, pleasure, thrills, or excitement.

AMUSEMENT PARK. A tract, structure, area, and equipment, including electrical equipment, used principally as a location for supporting amusement rides, amusement devices, and concession booths.

AMUSEMENT RIDE. Any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement.

BUILDING OFFICIAL. A principal inspector responsible to the city.

CONCESSION BOOTH. A structure or enclosure located at a fair or carnival or amusement park from which amusement and/or services, souvenirs, food, or other commerce items are offered to the public.

INSPECTION ENGINEER. A state-registered engineer or engineers retained by the operator for purposes of conducting such certifications as are required herein.

MAJOR ALTERATION. A change in the type or capacity of an amusement ride or device or a change in the structure or mechanism that materially affects its function or operation. This includes, but is not limited to, changing its mode of transportation from non-wheeled to a truck or flat-bed mount, and changing its mode of assembly or other operational functions from manual to mechanical or hydraulic.

MAJOR BREAKDOWN. A stoppage of operation from whatever cause resulting in damage, failure, or breakage of a stress bearing part of a ride or device.

OPERATOR. A person who owns or controls or has the duty to control the operation of a facility covered by this subchapter.

RATED CAPACITY. A capacity established by the design engineer for the normal loading and operation of a ride or device, or in absence thereof, as established by the inspecting engineer after inspection and determination.

RIDE OPERATOR. A person or persons causing a ride or amusement device to go and stop or perform its entertaining function.

SKI LIFT. Any mechanical device or combination of devices which carries passengers over a fixed course for the purpose of transporting the passengers to or from a place where some skiing may commence.

(B) *Interpretations*. Where local regulations are more restrictive than codes, the more restrictive shall apply.

(2013 Code, § 6.26) (Ord. 86, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.116 LICENSE REQUIRED.

It is unlawful for any person to operate a ski lift, ride, amusement device, or concession booth at any facility covered by this subchapter in the city which is not licensed.

(A) *Application*. On or before the January 1 of each year, any person required to obtain a license by this subchapter shall apply to the city for a license on a form furnished by the city which form shall contain such information as the city may require. The city may waive the requirement that an application for a license must be filed on or before January 1 of each year if the applicant gives satisfactory proof to the city that the applicant could not reasonably comply with the date requirement and if the applicant promptly applied for a permit after the need for a permit is first determined.

(B) *Issuance of license*. Licenses shall not be issued until a valid certificate of occupancy has been issued for each amusement attraction, amusement ride, or concession booth located on the premises licensed under this subchapter, and all such licenses shall be in addition to any permit fees, or state or local code requirements or local inspections otherwise required by law.

(1) *New construction of amusement rides manufactured in the United States*.

(a) The certificate of occupancy for amusement rides manufactured in the United States and constructed on the facility licensed under the terms of this subchapter shall be pursuant to an application form provided by the city which will be accompanied by signed prints (each sheet) by a state- registered engineer or architect for all aspects of said ride which are not fabricated or supplied by the manufacturer.

(b) The application for said certificate of occupancy will include a certification by said inspecting engineer that the plans detailed for the ride in question have been drawn and/or reviewed by said engineer or architect and to the best of the belief and knowledge of said engineer or architect are in conformance with all existing applicable state and local codes governing said ride. The city may authorize the construction of said ride to be in stages as said applicable prints and certifications shall be submitted.

(c) Upon the completion of the construction of said ride and prior to the issuance of a certificate of occupancy for said ride, an inspecting engineer or engineers shall provide written certification of code compliance for such rides stating that the construction and direction of said ride are in compliance with the print specifications as submitted to the city and in compliance with all applicable state and local codes.

(d) In the event a reciprocal agreement does not exist between the state and the state in which the manufacturer's engineer is registered, the operator shall supply plans signed by the manufacturer's engineer and a certificate from the manufacturer's engineer stating that the ride has been installed according to design and in conformance to this division (B) prior to the issuance of a certificate of occupancy. The certification will specify the maximum loading capacity of the ride in terms of both people and weight.

(2) *New construction of non-U.S. manufactured rides*.

(a) The certificate of occupancy for amusement rides not manufactured in the United States and constructed on the facility licensed under the terms of this subchapter shall be pursuant to an application on a form provided by the city which will be accompanied by signed prints (each sheet) by a state-registered engineer or architect for all aspects of said ride which are not fabricated or supplied by the manufacturer.

(b) The city may authorize the construction of said ride to be in stages as said applicable prints and certifications shall be submitted. Upon installation of the ride and prior to issuance of an occupancy permit, the operator shall provide to the city a statement signed by a registered state engineer or architect and/or the ride manufacturer's engineer stating that the ride has been installed in accordance with the manufacturer's design and intent.

(c) The certification will specify the maximum loading capacity of the ride in terms of both people and weight.

(3) *Construction of used rides*.

(a) The certificate of occupancy for amusement rides manufactured in the United States and constructed on the facility licensed under the terms of this subchapter shall be pursuant to an application on a form provided by the city which will be accompanied by signed prints (each sheet) by a state-registered engineer or architect for all aspects of said ride which are not fabricated or supplied by the manufacturer. Prior to the issuance of an occupancy permit, the operator shall provide to the city a certification by a registered state engineer or architect and/or manufacturer's engineer that the ride has been installed in accordance with the manufacturer's design and intent and in conformance with all state and local codes governing the same.

(b) The operator shall also provide a statement certifying that all primary component parts of the ride have been tested and passed said testing. The operator will further provide documentation as to the maximum loading capacity for said ride and if such documentation is unavailable, the operator shall perform necessary stress analysis in order to specify and define the maximum loading capacity of said ride in terms of people and weight. The certification will specify the maximum loading capacity of the ride in terms of both people and weight.

(4) *Alterations and reconstruction*. A certificate of occupancy shall be required prior to the operation of any rides which have undergone major alteration or reconstruction after major breakdown, which certificate of occupancy shall not be issued until the operator provides the city with a certification by a state registered engineer or architect or manufacturer's engineer that said alteration or reconstruction is in accordance with the manufacturer's design and intent and in accordance with all applicable state and local codes.

(5) *Preemption*. The requirements of this division (B) do not preempt the city's right of entry or the obligations imposed under the electrical, plumbing, mechanical, building code, or fire code requirements, or the obligations to pay all applicable permit fees.

(C) *Fees*. Application and license fees shall be established by resolution of the Council.

(D) *Insurance*. No operator shall be issued a license under this subchapter unless the operator first obtains an insurance policy in an amount to be established by the Council, but not less than $1,000,000 combined single limit insuring the operator, the city, the city's elected and appointed officials, employees, and agents, against liability for any injury or death of any nature occurring on said premises.

(E) *Indemnity*. The operator shall agree in writing to indemnify and hold harmless the city, and the city's elected and appointed officials, (except registered engineers) employees, and agents against all claims, causes of action, or litigation covered under this subchapter.

(F) *Expiration*. All licenses issued under this subchapter shall expire on December 31 of the year issued.

(G) *Certificate of occupancy*. No license shall be issued until a certificate of occupancy has been issued for all facilities covered by this subchapter to be operated this license year. Prior to issuing a certificate of occupancy, the Building Official will conduct an inspection of the buildings for safety, and compliance with electrical, mechanical, plumbing, building, and fire codes.

(H) *Revocation; suspension*. Licenses may be revoked, suspended, or summarily suspended in accordance with state law for violation of this subchapter.

(2013 Code, § 6.26) (Ord. 86, passed 3-4-1982; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.117 CESSATION ORDER.

The Building Official may order in writing a temporary cessation or operation of any amusement device or ride, concession booth, or related electrical equipment covered herein if it has been determined after inspection to be hazardous or unsafe. The operation of such amusement device, ride, concession booth, or related electrical equipment shall not be resumed until the unsafe or hazardous conditions have been corrected to the satisfaction of the city and the cessation order lifted by written order.

(2013 Code, § 6.26) (Ord. 86, passed 3-4-1982; Ord. 337, passed 7-23-1992)

§ 110.118 VIOLATIONS.

(A) It is unlawful for any operator or ride operator to operate an amusement ride, ski lift, or concession booth or related electrical equipment at any facility covered in this subchapter without first having obtained a license from the city, or to violate any provisions

hereof.

(B) It is unlawful for any person to interfere with, impede, or obstruct in any manner the city or any authorized representative of the city in the performance of their duties under this subchapter. It is unlawful for any person to bribe or attempt to bribe the Building Official or the Building Official's designee.

(2013 Code, § 6.26) (Ord. 86, passed 3-4-1982; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

HORSE AND CARRIAGE LIVERY SERVICE

§ 110.130 SUBCHAPTER APPLICABILITY.

All persons operating a horse and carriage livery service within the city limits shall comply with this subchapter and all other appropriate subchapters of this code of ordinances.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.131 DEFINITION.

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

HORSE AND CARRIAGE LIVERY SERVICE. A horse-drawn, 4-wheeled carriage for hire, which shall be driven by the owner or the owner's designated driver for the recreational transportation of the public.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.132 PERMIT REQUIRED.

Permits for the operation of horse and carriage livery vehicles shall be issued by the directive of the Council by the City Clerk, annually, and shall expire on December 31 of each year. Each permit so issued shall only be issued and/or renewed on the payment of an annual fee as prescribed by resolution and upon proof of general liability insurance, in the minimum amount of $300,000. Routes authorized to be traveled and preset tour routes planned by owner shall accompany the permit. There may be attached such other restrictions and limitations to the permit as is deemed appropriate for the protection of public health and welfare.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.133 VEHICLE OPERATION.

(A) All vehicles shall be operated in a manner so as to assure the safety of passengers and animals and in accordance with all appropriate federal and state laws and provisions of this code of ordinances. The driver of such vehicle shall hold a current State Class C driver's license.

(B) Each vehicle authorized to be operated on the streets of this city shall be kept in good mechanical and running condition. Each vehicle shall display a 2-digit identification number conspicuously on the right side of the carriage which shall be the same number assigned to the vehicle by authorizing permit.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.134 DRIVER OF VEHICLE.

The driver of such vehicle shall be at least 18 years of age and possess normal good health, eyesight, and hearing.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.135 MAINTENANCE OF ANIMALS.

(A) Prior to being employed, each horse shall be inspected and certified as fit for the type of workload anticipated. This inspection shall be performed by a licensed veterinarian, and the certification shall be filed with the City Clerk. Re-inspection and re-certification shall be performed as needed, not to exceed 120 calendar day intervals.

(B) All records of such inspections and certifications shall be maintained by the owner and available for review by the appropriate authorities. Horses stabled within the city limits shall be exercised as required to maintain health and fitness.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.136 SANITATION.

Each horse employed under this subchapter while "on the street" shall be diapered with an appropriate and sanitary contraption, designed specifically for this purpose. In the event of a mishap, it shall be the responsibility of the driver/owner to immediately remove or otherwise clean the street, sidewalk, or property in the general area of the mishap.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.137 CITY STREETS.

Any permits issued hereunder may be recalled if the Council determines that the surface of the city streets traveled by the livery service is being impaired by the horses' hoofs.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.138 HOURS OF OPERATION.

No horse and carriage livery service shall be conducted after sunset and before 8:00 a.m. No horse and carriage livery service shall be conducted between the hours of 4:00 p.m. and 6:00 p.m. on weekdays. The horse, carriage, and its driver must be "off the street" and absent from all loading zones during these times.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.139 LOADING ZONES.

The Council may designate and authorize specific locations on public streets as horse and carriage loading zones. The owner may negotiate with individual property owners for loading zones on private property which information shall be filed with the City Clerk.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.140 RATES.

The rate structure shall be posted on the carriage clearly and visible to entering and seated passengers. Drivers shall clearly explain rates to passengers before commencing ride.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992)

§ 110.141 OPERATION OF CERTAIN VEHICLES PROHIBITED IN CERTAIN AREAS.

No horse drawn carriage or any vehicle engaged commercially in carrying or transporting passengers drawn by any type of animal or animals may travel on any street or public thoroughfare in the city north of Tenth Avenue extending and east of Marschall Road.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

§ 110.142 UNLAWFUL ACT.

It is unlawful for any person to fail to comply with this subchapter and violation by the owner may also result in suspension of the permit.

(2013 Code, § 6.27) (Ord. 214, passed 5-14-1987; Ord. 337, passed 7-23-1992) Penalty, see § 110.999

PET STORE LICENSING

§ 110.155 PURPOSE.

The City Council finds that pet stores can present health, safety, and sanitation problems if not properly and locally regulated. The City Council therefore enacts the following licensing scheme governing pet stores.

(Ord. 873, passed 10-1-2013)

§ 110.156 PET STORE LICENSE REQUIRED.

No person shall own or operate a pet store that offers animals for sale or adoption without first obtaining a license in compliance with this subchapter.

(Ord. 873, passed 10-1-2013) Penalty, see § 110.999

§ 110.157 LICENSE APPLICATION.

The application for a license under this subchapter shall be made on a form supplied by the City Clerk containing the following information:

(A) The full name, current address, home, and business phone of the applicant;

(B) Whether the applicant is a natural person, corporation, partnership, or other form of organization;

(C) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;

(D) The location where the pet store will be operated;

(E) Such other information as the City Clerk deems necessary;

(F) Description of the operation including, but not limited to, the type and number of animals, animal shelter, and restraints, and copies of applicable rabies vaccination information; and

(G) Evidence of liability insurance amount of at least $ 1,000,000 per occurrence for bodily injury.

(Ord. 873, passed 10-1-2013)

§ 110.158 LICENSE FEE.

The fee for a pet store license shall be set forth by a separate ordinance. The license shall be effective as long as the licensee is in compliance with the provisions within this subchapter.

(Ord. 873, passed 10-1-2013)

§ 110.159 LICENSE APPLICATION EXECUTION, VERIFICATION, AND CONSIDERATION.

(A) *Execution*. All applications for a license under this subchapter shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by 1 of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(B) *Verification*. All applications shall be subject to verification and investigation of the facts set forth in the application. The City Clerk is authorized to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant.

(C) *Consideration*. Within a reasonable period after the completion of the license verification process, the City Council shall accept or deny the license application in accordance with this subchapter. If the application is denied, the City Council shall notify the applicant of the determination in writing.

(Ord. 873, passed 10-1-2013)

§ 110.160 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

(A) *Persons ineligible*. No license under this subchapter shall be issued to an applicant if such applicant:

(1) Is not 18 years of age or older on the date the license application is submitted to the City Council;

(2) Has been convicted of any crime directly related to the occupation licensed, including, but not limited to, cruelty to animals, as prescribed by M.S. § 364.03, subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed by M.S. § 364.03, subd. 3, as it may be amended from time to time;

(3) Is not a citizen of the United States, a resident alien, or does not have the legal authority to be employed in the United States;

(4) Is not of good moral character or repute;

(5) Has knowingly falsified or misrepresented information on the license application;

(6) Owes taxes and assessments to the state, county, school district, or city that are due and delinquent; or

(7) Is not the real party in interest of the business being licensed.

(B) *Locations ineligible*. The following locations shall be ineligible for a license under this subchapter.

(1) *Taxes due on property*. No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are past due, delinquent, or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.13, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding 1 year after becoming due.

(2) *Improper zoning*. No license shall be granted if the property is not properly zoned.

(3) *Space not suitable*. No license shall be granted if the property or building is not suitable for a pet store due to size, configuration, location, design, or other site characteristics that is likely to create a nuisance to adjoining property users or significantly impair the ability of the licensee to comply with the provisions of this subchapter.

(Ord. 873, passed 10-1-2013)

§ 110.161 HEALTH AND WELFARE REGULATIONS.

(A) *Diseased animals*. The pet store licensee must not possess or offer for sale, any animal afflicted with an infectious disease.

(B) *Floor requirements*. The floors of a pet store shall be non-absorptive, monolithic construction and must be kept in a clean and sanitary condition and in good repair. For large animals where it would be detrimental to the animal's health to stand for prolonged periods on hard non-absorbent floors, alternate approved flooring, such as rugs that may be removed and laundered, may be allowed.

(C) *Walls and ceilings*. Walls and ceilings of a pet store shall be kept clean, sanitary, and in good repair.

(D) *Confinement*. All cages, pens, benches, boxes, tanks, or receptacles in which animals are confined shall be easily cleanable, durable, and constructed of non-corrosive material and maintained in good repair. Such cages and pens shall also be properly sufficient and humane in size for the confinement of such animals.

(E) *Ventilation*. All rooms in a pet store shall be mechanically ventilated and meet all standards of the Uniform Mechanical Code. A negative pressure must be maintained to prevent odors and organisms from entering the adjacent businesses or departments. Provisions shall be made for pre-heated replacement air.

(F) *Delivery requirements*. All delivery trucks transporting animals to and from the pet store shall be kept clean and sanitary.

(G) *Feedings of animals*. All utensils used in the preparation of food and the feeding of animals shall be kept clean, sanitary, and in good repair; and the use of the utensils for such purpose which are badly worn, rusted, or corroded, or in such condition that they cannot be clean and sanitary is prohibited.

(H) *Humane treatment of animals*. Any animal in the pet store shall be handled and treated in a humane manner by the owner, operator, and employees of the pet store. All state laws governing cruelty to animals and humane treatment of animals shall be adhered to and all operations must enhance or maintain the health and welfare of all animals in the establishment.

(I) *Location of animals*. Where the licensee keeps animals for sale or display, all animals shall be kept entirely within an enclosed building and no animals shall be kept or maintained outdoors. Exterior walking or exercise areas shall be maintained free of wastes and other litter, and all wastes should be removed and disposed of in an approved manner immediately.

(J) *Infectious diseases*. All animals subject to distemper and infectious hepatitis must be inoculated prior to delivery to the pet store by a licensed veterinarian, and the pet store owner or operator must maintain valid proof of such inoculation. Primates must have a yearly tuberculin test.

(K) *Size requirements*. The pet store must include a room of sufficient size to contain an approved sink with hot and cold running water under pressure, for the purpose of storing janitorial supplies, and equipment used to maintain the premises in a clean and sanitary manner.

(L) *Disposal of wastes*. All animal wastes must be disposed of in a timely and sanitary manner. In no event shall there be an accumulation of waste beyond 24 hours. In public areas during exhibition, all wastes must be disposed of immediately or, at minimum, such waste to be stored in an approved container with tight fitting lids and disposed of in an approved sanitary manner at the end of the day.

(Ord. 873, passed 10-1-2013) Penalty, see § 110.999

§ 110.162 SANCTIONS FOR LICENSE VIOLATIONS.

(A) *Suspension or revocation*. The City Council may suspend or revoke a license issued pursuant to this subchapter for a violation of:

(1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application;

(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;

(3) Any violation of this subchapter or state law;

(4) A licensee's criminal conviction that is directly related to the occupation or business licensed, including, but not limited to, cruelty to animals, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time; provided, that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform duties of the licensed occupation or business as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time; and

(5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

(B) *Notice and hearing*. A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(Ord. 873, passed 10-1-2013)

§ 110.163 LICENSE REGULATIONS.

(A) *Posting of license*. The license issued pursuant to this subchapter shall be conspicuously displayed at the pet store.

(B) *Insurance*. No license shall be issued or continued in operation unless there is in full force and effect a liability insurance policy in the amount of at least $1,000,000 per occurrence for bodily injury.

(C) *Licensed premises*. A license issued pursuant to this subchapter is effective only for the compact and contiguous space specified in the approved license application.

(D) *Transfer of license prohibited*.

(1) A license issued pursuant to this subchapter is for the person and the persons named on the approved license application.

(2) No transfer of a license shall be permitted, from place to place or from person to person, without complying with the requirements of an original license application.

(Ord. 873, passed 10-1-2013)

§ 110.164 PET STORE LICENSE FEE.

The pet store license fee shall be $100.

(Ord. 874, passed 10-1-2013)

MOBILE FOOD UNITS

§ 110.185 PURPOSE.

This subchapter is intended to require an establishment preparing and serving food from a self-contained readily moveable vehicle to obtain a license from the city and to regulate the conditions from which the licensed establishment operates within the city for the promotion of business within the city and for the protection of customers and the general public.

(Ord. 905, passed 6-2-2015)

§ 110.186 DEFINITION.

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

MOBILE FOOD UNIT.

(1) A self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle that is readily movable without disassembling and that is used to store, prepare, display or serve food intended for individual portion service; or

(2) A mobile food unit as defined in M.S. § 157.15, subd. 9, as it may be amended from time to time.

(Ord. 905, passed 6-2-2015)

§ 110.187 LICENSE APPLICATIONS.

(A) *License types*. Each applicant must indicate whether it is applying for a temporary license or annual license. A temporary license allows mobile food unit operations in the city for up to 10 days total from March 15 to November 15 of each calendar year. An annual license allows mobile food unit operations in the city for 10 days or more from April 1 to October 31 of each calendar year. A licensee will only be issued one temporary license per calendar year, however nothing shall prohibit a temporary licensee from applying for an annual license within the same calendar year.

(B) *License fees.* There is no fee for a temporary license. There is a fee for an annual license. The fee shall be established periodically by resolution of the City Council.

(C) *Mobile food unit.* It is unlawful for any person to operate a mobile food unit in the city without first obtaining a license from the city. An application for a license shall be filed, along with all required fees, with the City Clerk. The applicant must be the owner of the mobile food unit. The application shall be made on a form supplied by the city and shall contain the following information:

(1) A description of the nature of the business and the goods to be sold and the license plate number and description for any vehicle to be used in conjunction with the activity;

(2) The name of the owner and operator, if different than the owner, of the mobile food unit and the name of all persons working for the owner and operator of the mobile food unit;

(3) The applicant's full legal name, other names the applicant uses or is known by, date of birth and driver's license number or other legal identification with a photograph of the applicant;

(4) The permanent and any temporary home and business address, phone numbers and email address of the applicant;

(5) The name, address and contact information for the commissary with which the mobile food unit is affiliated, if applicable;

(6) Names and contact information of at least 2 references who will substantiate the applicant's good character and business responsibility or other evidence of the good character and business responsibility of the applicant;

(7) A statement regarding whether the applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense;

(8) A certificate of insurance by an insurance company authorized to do business in the state, evidencing the following forms of insurance:

(a) Commercial general liability insurance, with a limit of not less than $1,000,000 each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than $2,000,000;

(b) Automobile liability insurance with a limit of not less than $2,000,000 combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;

(c) Food products liability insurance, with a limit of not less than $1,000,000 each occurrence;

(d) Public liability insurance, with a limit of not less than $1,000,000 each occurrence;

(e) Property damage insurance, with a limit of not less than $1,000,000 each occurrence;

(f) Workers compensation insurance (statutory limits) or evidence of exemption from state law; and

(g) The city shall be endorsed as an additional insured on the certificate of insurance and the umbrella/excess insurance if the applicant intends to operate its mobile food unit on public property.

(9) The certificate of insurance shall state that the insurance has been endorsed to require that the city be notified 30 days in advance of cancellation of the policy or a material modification of a coverage term;

(10) Written consent of each private property owner from which mobile food unit sales will be conducted;

(11) If applying only for a temporary license, the applicant must provide the exact dates and locations for its up to 7 days of mobile food unit operations;

(12) A copy of each related license or permit issued by Scott County and the state required to operate a mobile food unit; and

(13) A copy of the applicant's state sales tax ID number.

(Ord. 905, passed 6-2-2015; Ord. 928, passed 3-2-2016)

§ 110.188 CONDITIONS OF LICENSING.

(A) *Locations.* A mobile food unit may only operate in the locations set forth in this division (A). A mobile food unit may operate in

a private commercial or industrial parking lot and on private residential property, with the written consent of the private property owner. When operations occur on private residential property, mobile food unit sales may only be for catering purposes (such as a private graduation party or wedding) and not open for sales to the general public. A mobile food unit may only operate along a public or private street when the street is closed to all non-emergency vehicles. A mobile food unit may only operate in a city park or on city property with the prior written approval by the city; additional permits may be required for such operations.

(B) *Performance standards.* A mobile food unit licensee is subject to the following performance standards:

(1) A mobile food unit with an annual license may not operate on the same property more than 21 days from April 1 to October 31 (M.S. § 157.15, subd. 9, as it may be amended from time to time).

(2) No mobile food unit sales between 11:00 p.m. and 7:00 a.m.

(3) A mobile food unit must dispose of its gray water daily. Gray water may not be drained into city storm water drains.

(4) An out of service mobile food unit may be stored only in an area zoned B1, I1, or I2, and where outside storage is allowed by conditional use permit.

(5) The mobile food unit may have a maximum bumper to bumper length of no more than 30 feet.

(6) A mobile food unit is not required to obtain a sign permit from the city. However, no additional signage is permitted beyond that which is on the mobile food unit unless it meets the following requirements:

(a) One single sandwich board style sign is permitted per mobile food unit;

(b) The maximum sign size is 8 square feet;

(c) The sign must be placed on the ground and within 10 feet of the mobile food unit;

(d) The sign must not be placed within the public right-of-way except with the express written permission of the city; and

(e) The sign cannot project from the mobile food unit or be mounted to the roof of the mobile food unit.

(7) A mobile food unit with a Type I cooking hood shall have said hood cleaned at least annually as required by the applicable regulations.

(8) A mobile food unit with a fire suppression system under the cooking hood shall have the system tested and tagged in accordance with applicable codes.

(9) A mobile food unit must have at least 1, 2A:20BC fire extinguisher in the mobile food unit. If deep frying occurs in the mobile food unit, then the mobile food unit must have at least 1 Class K fire extinguisher in the mobile food unit. Each fire extinguisher must display an inspection tag dated within the past 12 months.

(10) A licensee must comply with all laws, ordinances, regulations, parking zones and posted signs.

(11) A mobile food unit must provide an independent power supply that is screened from public view.

(12) Propane tanks must be attached or secured to the mobile food unit and must be adequately ventilated.

(C) *License.* A mobile food unit license is non-transferable. Proof of license shall be displayed at all times in the mobile food unit. Mobile food unit operations may not occur in January, February, March, November and December. A mobile food unit license is an annual license.

(D) *Practices prohibited.* It is unlawful for any person engaged in the business of a mobile food unit operation to do the following:

(1) Call attention to that licensee's business by crying out, blowing a horn, ringing a bell or by any loud or unusual noise, or by use of any amplifying device;

(2) Fail to display proof of license and produce valid identification when requested;

(3) Remain on the property of another when asked to leave;

(4) Claim endorsements by the city based on license; or

(5) Conduct business in any manner as to create a threat to the health, safety and welfare a specific individual or the general public.

(Ord. 905, passed 6-2-2015) Penalty, see § 110.999

§ 110.189 SUSPENSION OR REVOCATION OF A LICENSE.

A license issued pursuant to this section may be suspended by a city official if the licensee has violated § 110.188, or is otherwise conducting business in such a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal pursuant to this section. When taking action on any license issued under this subchapter, the city official shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the City Council. The notice shall also inform the licensee that the license shall be automatically revoked if no appeal is filed within 21 days of the date of the notice by the city official. Verbal notice shall be confirmed within 5 days by a mailed written notice to the licensee. The City Council shall not conduct a hearing on a suspension or revocation unless a request is made by the licensee in writing. If a request for a hearing is made, the City Council shall conduct the hearing at the next available City Council meeting. No City Council resolution or other notice calling for a hearing shall be required.

(Ord. 905, passed 6-2-2015)

§ 110.190 PENALTY.

Upon conviction, a person's first violation of any provision in this subchaper constitutes a petty misdemeanor. A conviction for a subsequent violation constitutes a misdemeanor.

(Ord. 928, passed 3-2-2016)

§ 110.999 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(1) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor.

(2) *Petty misdemeanor*. As to any violations not constituting a misdemeanor under the provisions of division (A)(1) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 6.99)

(B) The penalty for a first or second incident shall be imposed and administered by the City Administrator upon an admission by the licensee that the licensee violated any part of §§ 110.025 through 110.043. The penalties for a third or subsequent incident may only be imposed by the City Council.

(2013 Code, § 6.22)

(C) (1) *Licensees*.

(a) Any licensee who furnishes, sells, or attempts to sell tobacco, tobacco products, or tobacco-related devices to a minor or whose employee furnishes, sells, or attempts to sell tobacco, tobacco products, and tobacco-related devices to a minor shall be penalized as follows:

1. *First incident*: $500 fine, plus 1-day license suspension; provided; however, that the day license suspension will be suspended for 1 year on the condition that both the licensee and his or her employees have no further incidents of furnishing, selling or attempting to sell tobacco, tobacco products, and tobacco-related devices to a minor;

2. *Second incident within 36 months of first incident*: $750 fine, plus 5-day license suspension; and

3. *Third or subsequent incident within 36 months of first incident*: $1,000 fine, plus 30-day license suspension or

revocation.

(b) The penalty for a first or second incident may be imposed and administered by the City Administrator if the licensee waives the hearing authorized by § 110.065 and the licensee admits the violation. The penalties for a third or subsequent incident may only be imposed by the City Council. No suspension or penalty may take effect until the licensee has received notice of the alleged violation and an opportunity for a hearing as provided in § 110.065.

(c) Any revoked license shall not be eligible for reinstatement for at least 12 months.

(2) *Other individuals*. Any individual who sells tobacco, tobacco products, and tobacco-related devices to a minor shall be charged an administrative penalty of $50, subject to the right to a hearing before the City Council as provided in § 110.065. Nothing in this division (C) shall prohibit the city or other jurisdiction from seeking criminal prosecution for any alleged violation of this division (C) by any individual other than a licensee or employee of a licensee.

(3) *Criminal penalties*.

(a) Except as otherwise provided in division (C)(3)(f) below, it shall be a misdemeanor for anyone to sell tobacco, tobacco products, and tobacco-related devices to a minor. Whoever violates this division (C)(3) a subsequent time within 5 years of a previous conviction under this division (C)(3) shall be guilty of a gross misdemeanor.

(b) Except as otherwise provided in division (C)(3)(f) below, it shall be a misdemeanor for anyone to furnish tobacco, tobacco products, and tobacco-related devices to a minor.

(c) It shall be a petty misdemeanor for a minor to smoke, chew, sniff, or otherwise use or ingest tobacco, tobacco products, and tobacco-related devices.

(d) It shall be a petty misdemeanor for a minor to have in minor's possession tobacco, tobacco products, and tobacco-related devices. This provision does not apply to a minor who is an employee of a license holder while stocking tobacco, tobacco products, and tobacco-related devices or to a minor lawfully involved in a compliance check.

(e) It shall be a petty misdemeanor for a minor to purchase, or attempt to purchase tobacco, tobacco products, and tobacco-related devices, or for any person to purchase or otherwise obtain such items on behalf of a minor. This provision does not apply to a minor who purchases or attempts to purchase tobacco-related products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

(f) It shall be a petty misdemeanor for a minor to sell, furnish, or give away any tobacco, tobacco products, and tobacco-related devices.

(g) It shall be a misdemeanor for a minor to attempt to disguise minor's true age by the use of a false form of identification, whether the identification is that of any other person or one on which the age of the minor has been modified or tampered with to represent an age older than the actual age of the minor.

(4) *Continued violation*. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(2013 Code, § 6.23)

(D) Each day that a person violates any of the provisions of §§ 110.080 through 110.089 shall constitute a separate offense hereunder.

(2013 Code, § 6.24)

(E) Each day that a person violates any of the provisions of §§ 110.115 through 110.118 shall constitute a separate offense hereunder.

(2013 Code, § 6.26)

(F) A violation of this §§ 110.155 through 110.063 shall be a misdemeanor under state law.

(G) In addition to or in lieu of any administrative or civil penalty for §§ 110.185 through 110.189, a licensee may be criminally charged for a violation of local, state or federal laws or regulations.

(Ord. 1, passed 4-1-1978; Ord. 85, passed 3-4-1982; Ord. 86, passed 3-4-1982; Ord. 337, passed 7-23-1992; Ord. 352, passed 1-7-1993; Ord. 519, passed 7-2-1998; Ord. 633, passed 7-18-2002; Ord. 812, passed 2-12-2009; Ord. 831, passed 3-11-2010; Ord. 841,

passed 12-30-2010; Ord. 873, passed 10-1-2013; Ord. 905, passed 6-2-2015)

CHAPTER 111: CONSTRUCTION LICENSING

Section

§ 111.01 BUILDING CODE; APPLICATION, PERMITS, FEES, AND THE LIKE.

(A) *Application, administration, and enforcement.* The application, administration, and enforcement of this chapter shall be in accordance with State Building Code. The Code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.121, as it may be amended from time to time, when so established by this section. The code enforcement agency of this municipality is called the Inspection Division of the Community Development Department of the city. This Code shall be enforced by the State Certified Building Official designated by this municipality to administer the Code (M.S. § 326B.133, as it may be amended from time to time).

(B) *Permits and fees.* The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.121, as it may be amended from time to time. Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by the municipality in (i.e., section number from this code of ordinances, ordinance number, and the like). In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with M.S. § 326B.148, as it may be amended from time to time.

(C) *Building Codes.*

(1) The State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 326B.101 to 326B.16, as they may be amended from time to time, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the Department of Labor and Industry Construction Codes and Licensing is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section.

(2) The State Building Code is hereby incorporated in this section as if fully set out herein:

(a) 2015 Minnesota State Building Code (MSBC);

(b) Minn. Rules Ch. 1300, Administration of the State Building Code;

(c) Minn. Rules Ch. 1301, Building Official Certification;

(d) Minn. Rules Ch. 1302, State Building Code Construction Approvals;

(e) Minn. Rules Ch. 1303, State Provisions;

(f) Minn. Rules Ch. 1305, Adoption of the 2012 International Building Code;

(g) Minn. Rules Ch. 1306, Special Fire Protection Systems (subp. 2. existing and new buildings);

(h) Minn. Rules Ch. 1307, Elevators and Related Devices;

(i) Minn. Rules Ch. 1309, Adoption of the 2012 International Residential Code;

(j) Minn. Rules Ch. 1311, Adoption of the 2012 Guidelines for the Rehabilitation of Existing Buildings;

(k) Minn. Rules Ch. 1315, Adoption of the 2014 National Electrical Code;

(l) Minn. Rules Ch. 1322, Adoption of the Residential Energy Code;

(m) Minn. Rules Ch. 1323, Adoption of the Commercial Energy Code;

(n) Minn. Rules Ch. 1325, Solar Energy Systems;

(o) Minn. Rules Ch. 1335, Floodproofing Regulations;

(p) Minn. Rules Ch. 1341, State Accessibility Code;

(q) Minn. Rules Ch. 1346, Adoption of the 2012 International Mechanical/Fuel Gas Code;

(r) Minn. Rules Ch. 1350 Manufactured Homes;

(s) Minn. Rules Ch. 1360, Pre-Fabricated Structures;

(t) Minn. Rules Ch. 1361, Industrialized/Modular Buildings;

(u) Minn. Rules Ch. 1370, Storm Shelters (Manufactured Home Parks);

(v) Minn. Rules Ch. 4715, State Plumbing Code;

(w) Minn. Rules Ch. 1322, 1323, 7670,7672, 7674, 7676 and 7678, State Energy Code;

(x) This municipality may adopt by reference any or all of the following optional chapters of Minn. Rules Ch. 1306, Special Fire Protection System; and Minn. Rules Ch. 1335, Floodproofing regulations, Minn. Rules Ch. 1335.0600 to 1335.1200; and

(2013 Code, § 4.01) (Ord. 676, passed 8-14-2003; Ord. 800, passed 7-31-2008)

§ 111.02 BUILDING PERMITS.

(A) *Generally*.

(1) It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems, water wells, and on-site disposal systems therein, or remove or displace any soil, ground, or earth preparatory to

any action, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official.

(2) It is also unlawful for any firm, person, or corporation to erect, enlarge, improve, construct, repair, replace, or move a fence in all zoning districts of the city except agricultural within the corporate limits of the city without first obtaining a permit, with the exception of garden fences. Notwithstanding any provision of this section and in addition thereto, it is unlawful for any person to remove or displace any soil, ground, gravel, or earth without first obtaining a permit from the proper city officials.

(B) *Fence construction requirements*.

(1) All fences, with the exception of garden fences shall require a fence permit. No permit is required for repair to, or replacement of, an existing fence if the portion of the fence that is being repaired, or replaced is less than 20% of the fence's overall length and there is no change in the fence's height, material, or location. For purposes of this section, a ***FENCE*** shall be defined as any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure encircling either wholly or any portion of any area. A ***GARDEN FENCE*** shall be defined as a fence that is no more than 3 feet in height, that may be easily removed and that is used to protect gardens from animals. Residential fences greater than 6-1/2 feet in height, or commercial and industrial fences greater than 8 feet in height shall also require a conditional use permit (CUP).

(2) All fences erected in the city may be constructed adjacent to the property lines; provided, that they do not encroach into any easement area held by the city, any conservation easement area held by the city, or any sight triangle as defined by this code of ordinances, except if permission is otherwise granted or allowed by the city as part of the permitting process pursuant to § 90.16. If a fence on the rear property line abuts a public alley there must be a 3 feet setback.

(3) All fences shall be constructed of materials that are not deemed hazardous by the Building Official; of materials that are consistent with building materials standards set forth in Ch. 151, with the finished side of the materials facing adjacent properties or the public rights-of-way; and of materials that are low maintenance or easily maintained.

(4) Chain link fencing interwoven with slats, whether for screening purposes or for other applications, shall be prohibited.

(5) (a) Fences 6 feet and under shall be permitted anywhere on the lot except in the front yard setback or within any city easement areas or sight triangles except if permission is otherwise granted or allowed by the city as part of the permitting process. In the case of a double frontage lot, fences 6 feet in height, and under shall be permitted within the setback on a street frontage from which access is not obtained.

(b) Fences up to 3 feet in height shall be allowed in the front yard setback, so long as they are not within any city easement areas or sight triangles.

(6) Fences in excess of the above heights shall require a conditional use permit. City-owned recreation facilities shall be exempt from the conditional use permit requirement.

(7) All fences, with the exception of garden fences, shall not be located within a city easement or sight triangle except if permission is otherwise granted or allowed by the city as part of the permitting process. Garden fences may be located within a city easement area, but shall not obstruct drainage or impede the flow of surface water from or in the easement area. If a garden fence is located within an easement area, city staff may require it to be removed at the owner's expense at any time.

(8) Payment of a fence permit fee, as set forth in the city's most recent fee ordinance, is required before a permit is issued.

(C) *Appeal*. Any person aggrieved by a denial of a fence permit or removal of a garden fence by city staff may appeal such decision to the Board of Adjustment and Appeals. An appeal must be brought within 30 days of the date of the decision. After consideration of such appeal, the Board of Adjustment and Appeals may make such findings and issue such orders as it deems appropriate.

(D) *Demolition permit review of locally significant historic properties*.

(1) A building/demolition permit application for a building or structure that has been designated by the City's Historic Preservation Advisory Commission (HPAC) as a locally significant historic property must be referred to the HPAC for review. The application must include detailed plans, including a site plan and building elevations, and any other related information deemed necessary by the Building Official to evaluate the request.

(2) The HPAC may provide the applicant with comments and suggestions concerning the proposed demolition of the building or structure; including, but not limited to, suggesting incorporating the existing building into a development proposed for the property; rehabilitating or renovating the building; relocating the building; salvaging significant artifacts and materials from the building prior to

demolition; and documenting the building for historical reference prior to demolition.

(3) No building/demolition permit shall be issued by the Building Official for demolition of any locally significant historic property until the HPAC has provided its comments on the application. If within 45 days from the filing of a complete application, the HPAC has not commented on the application, the Building Official may issue the building/demolition permit if all other requirements for issuance have been met.

(4) If the Building Official determines that an emergency situation or natural disaster requires immediate repair to protect the safety of a building or structure or its inhabitants, the Building Official may issue the permit without prior HPAC action.

(5) In addition to any other remedies that might be available to the city, the Building Official or the Zoning Administrator may issue a stop work order or commence a civil injunctive action to stop, prevent, or abate a violation of this division (D) and may also impose additional fees as set forth in the Building Code or in the city's fee schedule.

(2013 Code, § 4.03) (Ord. 67, passed 6-18-1981; Ord. 75, passed 11-12-1981; Ord. 115, passed 3-2-1983; Ord. 129, passed 8-11-1983; Ord. 221, passed 6-30-1987; Ord. 361, passed 8-19-1993; Ord. 403, passed 3-2-1995; Ord. 550, passed 6-10-1999; Ord. 571, passed 6-27-2000; Ord. 591, passed 3-1-2001; Ord. 780, passed 6-14-2007; Ord. 786, passed 11-21-2007; Ord. 796, passed 5-29-2008; Ord. 804, passed 8-28-2008; Ord. 820, passed 5-14-2009; Ord. 855, passed 5-17-2012)

§ 111.03 FOREIGN MATTER IN STREETS.

(A) *General prohibition*. No person shall drive or move a vehicle which carries into or deposits in any public street, alley, or other public place, foreign matter of any kind, including, but not limited to, mud, dirt, sticky substances, or litter. A person who violates this provision shall immediately remove the foreign matter, and upon failure to do so may be prosecuted.

(B) *Construction sites*. Any person, firm, or corporation to whom a grading permit, building permit, street cut permit, or utility permit has been issued shall remove at least once each working day any foreign matter carried into or deposited in any public place by any vehicle entering or leaving the construction site.

(2013 Code, § 4.04) (Ord. 362, passed 9-30-1993) Penalty, see § 111.99

§ 111.04 PERMIT FEES.

Fees for building permits, fence permits, and inspection shall be adopted by resolution of the Council and may be amended from time to time in the same manner; provided, that a schedule of such fees, together with the effective date or dates thereof, shall be kept on file in the office of the Building Official, available for distribution upon request therefor, and uniformly enforced as the same become effective. If such fees are based upon a determination of value or size of the project, a determination thereof shall be made by the Building Official. Such fee schedule shall provide for a separate plumbing, heating, or electrical permit and inspection fee where the work to be done is so confined.

(2013 Code, § 4.05) (Ord. 1, passed 4-1-1978; Ord. 780, passed 6-14-2007)

§ 111.05 INSPECTIONS.

(A) All construction or work for which a permit is required shall be subject to inspection by the Building Official and certain types of construction shall have continuous inspection by special inspectors.

(B) The following rules concerning surveys shall be followed.

(1) *Survey*.

(a) No building permit shall be issued for any building on an outlot.

(b) For all other lots, no building permit shall be issued for any building unless a survey of the lot upon which the building is to be erected is submitted and is prepared and attested to by a registered surveyor and provides the following information:

1. Scale of drawing;

2. Lot and block number;

3. Dimensions of lot and north arrow;

4. Dimensions of front, rear, and side yards;

5. Location of all existing buildings on the lot;

6. Location of proposed building or construction (may be drawn by the developer and not certified by the surveyor);

7. Location of stakes at the lot corners;

8. The side yard and setback dimensions of buildings located on adjacent lots;

9. The location of all recorded easements, both public and private;

10. Grade elevations at the following points:

a. Each lot corner (both existing and proposed);

b. Crown of street at each lot line extended;

c. Top of curb at each lot line extended; NOTE: If no curb exists, blue tops to be established;

d. Proposed lawn and driveway elevations at all sides of building; and

e. Elevations of the top of foundation and garage floor. NOTE: Such elevations may be based upon an assumed datum.

11. The proposed disposal of drainage and surface waters indicating direction of surface water drainage by arrows.

(2) *Location*. The location of the proposed building on the lot shall be required to be drawn and attested to by a registered engineer if unusual circumstances deem it appropriate to ensure the location of the building on the lot.

(3) *Waiver*. The survey required in division (B)(1) above may be waived by the City Engineer if all of the following conditions are met:

(a) If the lot is not in a recorded subdivision;

(b) If the lot is in excess of 2-1/2 acres;

(c) If the building will be no less than 30 feet from any property line;

(d) If the lot has a minimum of 150 feet of frontage, (if a corner lot, the distance of the shortest side must be greater than 150 feet); and

(e) If the property is not zoned for commercial or industrial uses.

(4) *Plot plan*. If all of the conditions set forth in division (B)(3) above are met, the developer must provide a plot plan which includes as accurately as possible as much of the information required in division (B)(1) above, as practicable. The plot plan does not have to be certified by a registered surveyor.

(5) *Commencement of framing*. Prior to commencement of framing, or at the time of final foundation inspection, the building permit holder shall submit to the Building Official or the Building Official's assigns written verification by a registered land surveyor that the foundation elevation matches the approved foundation elevation within acceptable tolerances that have been determined by the Building Official or the Building Official's assigns.

(2013 Code, § 4.06) (Ord. 67, passed 6-18-1981; Ord. 730, passed 5-12-2005)

§ 111.06 CERTIFICATE OF OCCUPANCY.

(A) *Use or occupancy*. It is unlawful to use or occupy a building or structure in Groups A to I, inclusive, or change the existing occupancy classification of a building or structure or portion thereof, unless and until the Building Official has issued a certificate of occupancy consistent with such proposed use or occupancy.

(B) *Change in use*. Changes in the character or use of a building shall not be made except as specified in the SBC.

(C) *Certification of final grades and topsoil*. Prior to the issuance of a final certificate of occupancy for a structure, the permit

holder shall submit to the Building Official or the Building Official's assigns written verification by a registered land surveyor that the final (or as-built) grades for the site are consistent with the approved grading plan. The permit holder shall also submit written verification that the subject site contains the amount of topsoil required under Ch. 151, or other provisions of this code of ordinances. Written verification of topsoil does not need to be by a registered surveyor.

(D) *Certificate issued*. After final inspection, when and if it is found that the building or structure complies with the provisions of the SBC, the Building Official shall issue a certificate of occupancy which shall contain the following:

(1) The building permit number;

(2) The address of the building;

(3) The name and address of the owner;

(4) The description of that portion of the building for which the certificate is issued;

(5) A statement that the described portion of the building complies with the requirements of the SBC for group of occupancy in which the proposed occupancy is classified; and

(6) The name of the Building Official.

(E) *Temporary certificate*. A temporary certificate of occupancy may be issued by the Building Official for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. For residential structures, the following minimum conditions must be met:

(1) *Enclosed*. Dwelling to be fully enclosed, sided, and weather-tight;

(2) *Electrical*. Electrical work to be completed in area occupied with all switch and receptacle plates on and main service panel completed with cover on;

(3) *Sanitary facilities*. Sanitary facilities to be completed to a point where there is a kitchen sink and a full bathroom with water closet, lavatory, and bathtub or shower in operating condition with hot water necessary for their operation;

(4) *Light and ventilation*. Area to be occupied will be provided with necessary light and ventilation. Sleeping areas shall have proper escape windows and an approved smoke detector;

(5) *Heating*. Heating system to be completed if dwelling is occupied during cold weather;

(6) *Final inspection*. Final inspection to be called for within 1 year;

(7) *Fee*. The fee for a temporary certificate of occupancy shall be included in the resolution of the Council adopted in accordance with § 111.04. If the final inspection is not called for within 6 months of issuance of the temporary certificate of occupancy, an additional permit fee equal to 25% of the original fee shall be charged;

(8) *Correction list*. The temporary certificate of occupancy shall be accompanied by a correction list, specifying a date or dates for completion of all items;

(9) *Escrow*. The party seeking a temporary certificate of occupancy shall provide funds for an escrow account covering the cost of all correction items. Funds may be disbursed from the escrow account as items are completed, upon the written approval of the Building Official. Upon completion of all items and issuance of a certificate of occupancy, any remaining funds in the escrow account shall be returned to the party providing the escrow. In the event the items on the correction list are not completed by the specified completion date or dates, the escrow account shall be forfeited. Any person proving occupancy of the property may thereafter arrange to have the correction items completed and paid for from the escrow funds, until the escrow account is depleted;

(10) *Posting*. The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official; and

(11) *Violations*.

(a) It is unlawful to occupy a building or allow occupancy of a building prior to the issuance of a current certificate of occupancy.

(b) It is unlawful to occupy a building or allow occupancy of a building after the completion date specified in the correction list provided with a temporary certificate of occupancy.

(c) It is unlawful to fail to complete all items on the correction list provided with a temporary certificate of occupancy.

(2013 Code, § 4.07) (Ord. 225, passed 8-28-1987; Ord. 276, passed 12-1-1989; Ord. 325, passed 1-9-1992; Ord. 730, passed 5-12-2005) Penalty, see § 111.99

§ 111.07 SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

(A) *Scope*. This section, and any other applicable provision of this code of ordinances, applies whether the building or other structure proposed to be moved starts from a point of origin within or without the city, and has as its destination a point within or without the city, or whether the movement is merely through the city with both a point of origin and destination without the city; provided, that this section shall not apply if movement is not over a public street or other public property, and provided further, that this section shall not apply to moving any building 14 feet in width, or less.

(B) *Application*. In addition to the other required information to be furnished in the application for a building permit, the applicant shall provide the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates, and time of moving, and the name and address of the proposed mover.

(C) *Permit*. The permit shall state date or dates of moving, hours, routing, movement, and parking. Permits shall be issued only for moving buildings by building movers licensed by the state.

(D) *Fees and charges for moving buildings*. In addition to all other fees and charges payable for permits to move buildings, the applicant shall pay to the city in advance and prior to issuance of a permit, all estimated labor and material costs to be incurred by the city, including, but not limited to, police, utility changes, and street repairs. Any costs not included in the original estimate shall be paid by the permit holder after the work has been completed.

(E) *Unlawful act*.

(1) It is unlawful for any permittee under this section to fail to strictly comply with the terms of the permit.

(2) It is unlawful for any person to move a building without a permit required by the terms of this section.

(2013 Code, § 4.08) (Ord. 67, passed 6-18-1981) Penalty, see § 111.99

§ 111.08 VACANT DWELLINGS OR BUILDING; NUISANCE CONDITION.

(A) *Policy*. It is the policy of the city to promote the rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for the demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements. This policy is undertaken pursuant to M.S.§ 463.26, as it may be amended from time to time, which gives cities authority to enact and enforce ordinances related to hazardous buildings.

(B) *Findings*.

(1) The City Council finds and declares that buildings that remain vacant for any appreciable period of time become:

(a) An attractive nuisance to children;

(b) A harborage for rodents;

(c) An invitation to derelicts, vagrants, and criminals as a temporary abode;

(d) An increased fire hazard;

(e) The unkempt grounds surrounding such property invites the dumping of garbage thereon;

(f) Such buildings are allowed to become dilapidated since such buildings are often economically obsolete;

(g) Owners of such buildings are unwilling to expend the necessary funds to raze or repair buildings; and

(h) Such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts, and require additional governmental services.

(2) For the reasons stated above, the adequate protection of public health, safety, and welfare, therefor requires the establishment and enforcement of the means by which such nuisance conditions may be abated.

(C) *Securing vacant buildings*.

(1) The Building Official may order a vacant building secured, and shall cause notice of order to be served upon the owner of the premises in the following circumstances:

(a) If any building becomes vacant or unoccupied;

(b) Is deemed hazardous due to the fact that the building has not been secured, and is open to trespass; and

(c) The building could be made safe by securing the building.

(2) Such notice may be served personally or by mail. Service by mail is complete upon mailing of a copy of the order to the owner at the last known address. If the owner fails to comply with the order within 10 days after the order is served, the Building Official shall cause the building to be boarded up or otherwise properly secured.

(3) (a) The Building Official, Police Chief, or Fire Chief may waive all requirements herein, and cause a vacant building to be immediately boarded or otherwise secured when any 1 of them shall determine that an emergency exists with respect to the health or safety of persons in the community that requires the immediate boarding or securing of a vacant building.

(b) An emergency may be declared; provided, that:

1. The conditions showing the existence of an emergency are documented in writing by the Building Official, Police Chief, Fire Chief, or their designees; and

2. Notice be mailed immediately by the department invoking this section to the address of the owner and taxpayer, and, if recorded on the assessors rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefor.

(4) (a) After a vacant building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as the building has been repaired and reoccupied, the Building Official, Police Chief, or Fire Chief shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner.

(b) All costs, including an administrative fee, incurred by the city for boarding or otherwise securing a building under this section, shall be assessed.

(c) ***OWNER***, for purposes of this section, shall mean the person who is listed as the owner by the records of the County Assessor.

(D) *"Nuisance condition" defined; waiver of waiting period*.

(1) A building within the city shall be deemed a ***NUISANCE CONDITION*** if:

(a) It is vacant and unoccupied for the purpose for which it was erected, and for which purpose a certificate of occupancy may have been issued, and the building has remained substantially in such condition for a period of at least 6 months;

(b) Evidence clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building; or

(c) Evidence, clearly demonstrates that the cost of rehabilitation is not justified when compared to the post-rehabilitation resale value of the building.

(2) When it is determined by the Building Official, Police Chief, or Fire Chief or their designees that a building constitutes an immediate hazard to the public health, safety, and welfare, and after City Council approval, the 60-day waiting period set out in this section may be waived and the other procedures as set out in this section may be implemented immediately.

(3) Notwithstanding the foregoing provisions, accessory buildings such as garages, barns, and other similar structures, not intended to be used for human habitation, shall be deemed to constitute a nuisance condition when such building is structurally unsound in the opinion of the Building Official.

(E) *Abatement of nuisance condition*. Upon completion of the procedures set forth in this section, and approval by the City

Council, buildings determined to be a nuisance condition may be rehabilitated or razed.

(1) Before any action is taken to abate a nuisance condition, except as provided in division (C) above relating to securing vacant buildings, the Building Official shall examine the building to ascertain whether the nuisance condition should be ordered for rehabilitation or demolition.

(2) Before making its order, the Building Official shall consider the following:

(a) The need for neighborhood housing;

(b) The historic value of the building;

(c) The impact on the neighborhood and the ability of the neighborhood to attract future residents;

(d) The capacity of the neighborhood to use the property;

(e) The comprehensive plan and zoning classifications for the property use;

(f) The market potential of the property;

(g) The estimated cost of rehabilitation;

(h) The severity and history of neglect;

(i) The availability to the owner of funds for rehabilitation; and

(j) The structural condition of the building.

(3) If the owner contests the order of the Building Official to demolish a structure deemed to be a nuisance condition, the owner shall provide to the Department a statement itemizing the cost to rehabilitate the building in order to demonstrate the feasibility of rehabilitation.

(4) Before the execution of any order to demolish or rehabilitate a building under this section, the Building Official shall give notice of hearing at the last known address to the owner and other persons shown to have an interest in the building deemed to create a nuisance condition. Proper notice shall be sufficiently given when mailed by a certified mail return receipt requested, postage pre-paid, addressed to the owner to whom the building is registered with the Building Official or, if not registered, to the owner or other persons shown to have an interest in the property as ascertained by the files and records of the Register of Deeds or Registrar of Titles in and for Scott County. Such notice shall also be given to such persons that the Building Official has actual knowledge of having an interest in the said property. In addition, such notice of hearing before the City Council shall contain the Building Official's determination, recommendation, and the date, time, and place of the hearing. In addition, notice of the hearing shall be sent to all property owners within 350 feet of the subject property.

(5) At the hearing, the Building Official shall present an oral summary of the background and reasons for its recommendations. A report, including any pertinent documents and photos shall be filed as part of the record.

(F) *Alternatives to demolition*. The City Council may consider as alternatives to demolition:

(1) Ordering the owner of any such nuisance condition to rehabilitate the building and specifying the time within which such rehabilitation shall occur. If rehabilitation is the alternative required by the City Council, the owner shall present a plan for rehabilitation to the Building Official which shall contain a commitment of funds to accomplish the plan. If the plan required herein is not received by the Building Official within the time ordered by the City Council, the city shall proceed to demolish the building;

(2) After the hearing, the City Council shall order demolition or rehabilitation of the building, the Building Official shall prepare findings and an order based upon the evidence and record of the hearing. After Council approval of the order, a copy of the order shall be mailed to the last known address of the owner; and

(3) If the owner of the subject property fails to abide by the decision and order of the City Council, the Building Official shall immediately notify the Council, which may order immediate demolition, or otherwise amend its order.

(G) *Collection of costs*.

(1) The Building Official shall notify the owner of the costs incurred in razing or rehabilitating the building, and the owner shall be responsible for the payment of the same, together with an administrative fee of 15% of the cost, within 30 days of such notification.

(2) Upon default, payment after the said 30 days, the cost of razing or rehabilitating the building and the administrative fee shall

be levied and collected as a special assessment against the property, with interest at the rate of 8% per annum on the unpaid balance thereof.

(2013 Code, § 4.09) (Ord. 590, passed 2-1-2001)

§ 111.09 SWIMMING POOLS.

(A) *Definition*. A ***SWIMMING POOL*** is any outdoor enclosure located at a private residence:

(1) Designed, intended, or used for the containment of water, whether constructed below ground level or above ground level;

(2) Having a surface area of 100 square feet or more and a depth of 18 inches or more; and

(3) Which is designed, intended, or used for swimming, wading, or other recreational use by the owner or tenant of the property upon which the pool is constructed, or by their family or invited guests without payment of a fee.

(B) *Permit required*.

(1) All pool installations require a building permit; and

(2) The application for a permit must include the following:

(a) Complete plans and specifications for the construction of the pool;

(b) A site plan showing the distance of the proposed swimming pool from the property lines; existing structures on the lot, including the house, garage, and fences; trees; overhead and underground wiring; utility easements; any on-site sewer system; and other significant features;

(c) The proposed location of pumps, motors, electrical power source, if any, flushing and drainage outlets, and other operational features; and

(d) Location and specifications of protective fencing.

(C) *Fencing*.

(1) *Height*. Pools are to have fencing with a minimum height of 4 feet and a maximum distance between the ground and bottom of the fence of 3 inches.

(2) *Gate*. Any gate must be self-closing and self-locking. The latch shall be no less than 4 feet above the ground level and shall be so constructed and placed as to be inaccessible to small children. All gates shall be locked when the pool is not in use or is unattended by an adult who knows how to swim.

(3) *Materials*. Durable wood, masonry, or coated non-corrosive metal, or a combination thereof, are acceptable materials for construction of a fence. The fence must be so constructed that it is not climbable by small children. The fence may not block the view of the pool from the house.

(4) *Installation*. The fence shall be completely installed before filling the pool.

(5) *Above-ground pools*. The walls of an above-ground pool may serve as the fence, if 4 feet above ground level; however, any access to a permanent ladder or stairs must be fenced.

(D) *Construction requirements*.

(1) *Hazard*. Private swimming pools shall be constructed so as to avoid hazard or damage to the occupants of the subject property or the occupants of adjacent property.

(2) *Minimum requirements*.

(a) No pool shall be located closer to any underground or overhead utility line than allowed by the National Electrical Code and other applicable codes.

(b) No pool may be located within any public or private utility easement, ingress or egress easement, drainage way, wetland, or other location in which it will represent a threat to the natural environment.

(c) In areas zoned or used for residential purposes, pools, pool decks, filtration equipment, and other pool items are prohibited in the front yard and in the side-yard setback. Pools shall not be located within 10 feet of any property line or any principal structure.

(E) *Miscellaneous requirements*.

(1) *Conduct*. The conduct of persons and the operation of pools is the responsibility of the owner or the tenant thereof, and such conduct of persons and operation of the pool shall be done in such a manner so as to avoid any nuisance or breach of peace.

(2) *Drainage*. All back flushing water or pool drainage water shall be directed onto the property of the owner or onto approved drainage ways. Drainage onto public streets or other public drainage ways requires a permit from the Director of Public Works.

(3) *Lighting*. Any outdoor lighting of the pool may not spill or shine upon adjacent properties. For all underground pool lights and above ground plug-in motors, compliance with the Electrical Code is required.

(4) *Filling*. The filling of pools from fire hydrants or other public facilities is prohibited without prior approval of the Director of City Public Utilities.

(5) *Equipment*. U.S. Coast Guard-approved equipment such as life jackets, life preservers, and a shepherd's crook, is required at the pool site.

(2013 Code, § 4.10) (Ord. 361, passed 8-19-1993)

§ 111.10 ELECTRICAL PERMITS AND INSPECTIONS.

(A) *Applications of the provisions of this section*.

(1) The provisions of this section shall apply to all installations of electrical conductors, fittings, devices, fixtures hereinafter referred to as electrical equipment, within or on public and private buildings and premises, with the following general exceptions. The provisions of this section do not apply to the installations in mines, ships, railway cars, aircraft, automotive equipment, or the installations or equipment employed by a railway, electric, or communication utility in the exercise of its functions as a utility, except as otherwise provided in this section.

(2) As used in this section, ***REASONABLY SAFE TO PERSONS AND PROPERTY*** as applied to electrical installations and electrical equipment, means safe to use in the service for which the installation or equipment is intended without unnecessary hazard to life, limb, or property.

(3) For purposes of interpretation of the provisions of this section, the most recently published edition of the National Electrical Code, as and when adopted by the State Board of Electricity, shall be prima facie evidence of the definitions, interpretations, and scope of words and terms used in this section.

(B) *Electrical Inspector; qualifications and appointment*.

(1) *Position created*. There is hereby created the position of Electrical Inspector for the city. This position may be filled by a full-time or part-time city employee or by contractual agreement with a private person or company. The person chosen to fill the office of Electrical Inspector or to perform the duties as agreed in contract with the city shall be of good moral character, shall be possessed of such executive ability as is requisite for the performance of the duties, and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety to persons and property; the statutes of the state of the state relating to electrical work, and any orders, rules, and regulations issued by authority thereof; and the National Electrical Code as approved by the American Standards Association; shall have experience as an Electrical Inspector or 5 years experience in the installation of electrical equipment, or be a graduate mechanical or electrical engineer with 2 years of practical electrical experience and hold a valid State Journeyman's Electricians License.

(2) *Appointment of Inspector*. Qualified Electrical Inspectors and any assistants required shall be appointed by the Council or an agreement entered into with a qualified Electrical Inspector to perform the duties set forth by this section. Any assistant shall meet the same general requirements as the Electrical Inspector.

(3) *Salary of Inspector*. The salary of the Electrical Inspector shall be established by the Council. Before entering upon the discharge of the inspection duties, the Electrical Inspector shall be bonded in the sum of $1,000 to the city.

(4) *Duties of the Electrical Inspector*. It shall be the duty of the Electrical Inspector to enforce the provisions of this section. The Electrical Inspector shall, upon application, grant permits for the installation or alteration of electrical equipment, and shall make

inspections of electrical installations, all as provided in this section. The Electrical Inspector shall keep complete records of all permits issued, inspections and reinspections made and other official work performed in accordance with the provisions of this section. The Electrical Inspector also shall keep on file a list of inspected electrical equipment issued by or for Underwriters Laboratories, Inc., which list shall be accessible for public reference during regular office hours.

(5) *Prohibitions*. It is unlawful for the Inspector or any assistant to engage in the sale, installation, or maintenance of electrical equipment, directly or indirectly, and they shall have no financial interest in any concern engaged in such business.

(6) *Authority of Electrical Inspector*. The Inspector or the Inspector's assistants shall have the right during reasonable hours, to enter any building or premises in the discharge of all official duties, or for the purpose of making any inspection, reinspection, or test of electrical equipment contained therein or its installation. When any electrical equipment is found by the Inspector to be dangerous to persons or property because it is defective or defectively installed, the person, firm, or corporation responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required in the judgment of the Inspector to place such equipment in safe condition and if such work is not completed within 15 days or any longer period that may be specified by the Inspector in said notice, the Inspector shall have the authority to disconnect or order discontinuance of electrical service to said electrical equipment. In cases of emergency where necessary for safety to persons and property, or where electrical equipment may interfere with the work of the Fire Department, the Inspector shall have the authority to disconnect or cause disconnection immediately of any electrical equipment.

(C) *Standards for electrical equipment installation*.

(1) All installations of electrical equipment shall be reasonably safe to persons and property and in conformity with the provisions of this section and the applicable statutes of the state and all orders, rules, and regulations issued by the authority thereof.

(2) Conformity of installations of electrical equipment with applicable regulations set forth in the current National Electrical Code, National Electrical Safety Code, or electrical provisions of other safety codes which have been approved by the American Standards Association, shall be prima facie evidence that such installations are reasonably safe to persons and property, together with such additions and exceptions contained herein. Noncompliance with the provisions of this section shall be prima facie evidence that the installation is not reasonably safe to persons and property.

(3) The Electrical Inspector may, with approval of the Council, authorize installations of special wiring methods other than herein provided for.

(4) Buildings or structures moved from without to within and within the limits of the city shall conform to all of the requirements of this Code for new buildings or structures.

(5) Existing buildings or structures hereafter changed in use shall conform in all respects to the requirements of this Code for the new use.

(D) *Wiring methods*. The State Building Code, National Electric Code, and National Electric Safety Code applies.

(E) *Connections to installations*.

(1) It is unlawful for any person, firm, or corporation to make connections from a supply of electric to any electrical equipment for the installation of which a permit is required or which has been disconnected or ordered to be disconnected by the Electrical Inspector.

(2) The public or private utility providing services shall disconnect the same upon a written order from the Electrical Inspector, if the Inspector considers any electrical installation unsafe to life and property or installed contrary to this Code.

(F) *Permits and inspections*.

(1) An electrical permit is required for each installation, alteration, or addition of electrical work for light, heat, and power within the limits of the city.

(2) No permit shall be required for electrical installations of equipment owned, leased, operated, or maintained by a public service corporation which is used by said corporation in the performance of its function as a utility, except that such electrical installation shall conform to the minimum standards of the National Electric Safety Code.

(3) Ownership of any transmission or distribution lines or appurtenances thereto, including, but not limited to, transformers, shall not be transferred by a public service corporation to any person, firm, or corporation, except another franchised public service corporation dealing in electric energy for distribution and sale, without a permit first having been issued therefor by the city. Such permit shall be issued only after the facilities to be transferred have been inspected and approved as provided in this section and upon

payment of an inspection fee as set forth in this division (F).

(4) Before any permit is granted for the installation or alteration of electrical equipment, the person, firm, or corporation making application for such permit shall pay the city a fee in such amount as specified below and furnish proof of a valid state contractor's certificate.

(5) Application for such permit, describing the electrical work to be done, shall be made on a city certificate of affidavit, in writing, to the city, by the person, firm, or corporation so registered to do such work. The application shall be accompanied by such plans, specifications, and schedules as may be necessary to determine whether the electrical installation as described, will be in conformity with all the legal requirements. The fees for electrical inspection as set forth in this division (F) shall accompany such application. If the applicant has complied with all of the provisions of this section, a permit for such electrical installation shall be issued.

(6) All electrical installations which involve the concealment of wiring or equipment shall have a "rough-in" inspection prior to concealment, wherein the Inspector shall be duly notified in advance, excluding Saturday, Sunday, and holidays.

(7) Inspection fees shall be established by the Council by resolution.

(8) When any electrical equipment is to be hidden from view by the permanent placement of parts of the building, the person, firm, or corporation installing the equipment shall notify the Electrical Inspector and such equipment shall not be concealed until it has been inspected and approved by the Electrical Inspector or until 36 hours, exclusive of Saturdays, Sundays, and holidays, shall have elapsed from the time of such notification.

(9) At regular intervals the Electrical Inspector shall visit all premises where work may be done under monthly, semi-annual, or annual permits and shall inspect all electrical equipment installed under such a permit since the day of the last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this section, after the fee required has been paid.

(10) If upon inspection, the installation is not found to be fully in conformity with the provisions of this section, the Electrical Inspector shall at once forward to the person, firm, or corporation making the installation, a written notice stating the defects which have been found to exist.

(11) Should any persons, co-partnership or corporation begin work of any kind such as hereinbefore set forth, or for which a permit from the Electrical Inspector is required by provisions of this code of ordinances, without having secured the necessary permit therefor from the Inspector of Buildings either previous to or during the day of the commencement of any such work, or on the next succeeding day where such work is commenced on a Saturday or on a Sunday or a holiday, the permit applicant shall, when subsequently securing such permit, be required to pay double the fees hereinbefore provided for such permit, and shall be subject to all penal provisions of this section. Holders of a contractor's license shall not obtain permits for electric work unless the work is supervised by them and is performed by workers employed by them or their firm.

(12) Additional fees and/or fee shortages must be received by the city within 14 days of written notice. If additional fees and/or fee shortages are not received within 14 days of notice, permits for electrical installations will not be accepted by the city until such time as the additional fees and/or fee shortages are received. Additional fees and/or fee shortages that are not received within 14 days of notice are subject to a 10% per day penalty.

(G) *Liability for damages*. This section shall not be construed to affect the responsibility or liability for any party owning, operating, controlling, or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection or reinspection authorized herein or the certificate of approval issued as herein provided or by reason of the approval or disapproval of any equipment authorized herein.

(2013 Code, § 4.19) (Ord. 43, passed 7-3-1980; Ord. 337, passed 7-23-1992) Penalty, see § 111.99

§ 111.11 PLUMBING CODE.

The following portions of the State Plumbing Code, 1 copy of which is on file in the office of the City Clerk, are hereby adopted by reference and incorporated as part of this code of ordinances as fully as if set out at length herein:

(A) Appendix C - Guide for Sizing the Water Supply System; and

(B) Appendix D - Sizing the Building Water Supply System.

(2013 Code, § 4.26) (Ord. 309, passed 5-24-1991)

§ 111.12 DANGEROUS BUILDINGS.

The Uniform Code for Abatement of Dangerous Buildings is hereby adopted by reference and incorporated as part of this code of ordinances as fully as if set out at length herein. One copy of this Code is on file in the office of the City Clerk.

(2013 Code, § 4.27) (Ord. 309, passed 5-24-1991; Ord. 392, passed 12-15-1994; Ord. 408, passed 3-16-1995)

§ 111.13 HOUSING CODE.

The State Building Code, established pursuant to M.S. §§ 326B.101 to 326B.16, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality: Ch. 1306, subp. 2. Existing and New Buildings.

(2013 Code, § 4.40) (Ord. 261, passed 1-31-1989; Ord. 326, passed 1-9-1992; Ord. 391, passed 12-15-1994; Ord. 408, passed 3-16-1995; Ord. 800, passed 7-31-2008)

§ 111.14 ALARM SYSTEMS.

(A) *Scope and purpose*. This section provides regulation, establishes users' fees, and establishes a system of administration for alarm systems. The purpose of this section is to protect the public safety services of the city from misuse of public safety alarms, and to provide for the maximum possible service to public safety alarm users.

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

ALARM SYSTEM. Includes any alarm installation designed to be used for the prevention or detection of burglary, robbery, or fire on the premises which contains the alarm installation. Automobile alarm devices shall not be considered an alarm system under the terms of this chapter.

ALARM USER. The person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

FALSE ALARM. An alarm system 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 malfunction, improper installation, or the inadvertence of the owner or lessee of the alarm system or of owner or lessee's employees or agents. ***FALSE ALARMS*** do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature, or any other conditions which are clearly beyond the control of the alarm manufacturer, installer, or owner.

PUBLIC SAFETY COMMUNICATION CENTER. The city's facility used to receive emergency requests for service and general information from public to be dispatched to respective public safety units.

PUBLIC SAFETY PERSONNEL. Duly authorized city employees or employee.

(C) *User fees*.

(1) An alarm system which causes more than 2 false alarms to the city in a single calendar year and which has received notice of such violations will cause the alarm user to be charged a user fee, as specified in the city's fee schedule, per false alarm in excess of 2 false alarms in a calendar year for false police notifications and a user fee as specified in the city's fee schedule, per false alarm in excess of 2 false alarms in a calendar year for false fire notifications.

(2) Any alarm user which is required by the city to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the Chief of Police and/or Fire Chief within 10 days of notice by the city of the false alarm charge. Following review and determination by the Chief of Police and/or Fire Chief, such decision may be appealed to the City Administrator who will have the authority to make a final determination as to whether the appellant is to be charged with a false alarm.

(3) Payment of user fees provided for under this section must be paid to the City Clerk within 30 days from the date of notice by the city to the alarm user. Failure to pay the fee within 30 days' notice will cause the alarm user to be considered delinquent and subject to a penalty of 10% of the fee.

(4) All delinquent charges for user fees computed as provided in division (C)(3) above may either be collected by the city in a civil action or may be forwarded to the City Clerk who shall prepare an assessment roll each year of the delinquent amounts against the respective properties serviced, which assessment roll shall be delivered to the City Council for adoption on or before October 10 of each year.

(D) *Alarm report*. When an alarm user has incurred 5 alarms or more within 1 calendar year, the user must submit a written report to the Chief of Police and/or Fire Chief within 10 days after being charged with the fifth false alarm, describing actions taken or to be taken to discover and eliminate the cause of the false alarms.

(E) *Administrative rules*.

(1) The Chief of Police and Fire Chief shall promulgate such rules as may be necessary for the implementation of this chapter and the administration thereof.

(2) The Chief of Police and Fire Chief may develop and maintain statistics for the purpose of ongoing alarm system evaluations.

(2013 Code, § 4.41) (Ord. 558, passed 9-30-1999; Ord. 618, passed 2-28-2002; Ord. 773, passed 12-14-2006)

§ 111.15 FIRE WARNING SYSTEMS IN RESIDENTIAL OCCUPANCIES.

(A) *Fire warning system required*. Every hotel, motel, and dwelling unit, including single- dwellings, mobile homes, and every rooming house shall be provided with approved smoke detectors as hereinafter set out.

(B) *Type of warning device*. Warning devices required by this section shall be activated by smoke and shall conform to the requirements of the State Building Code and the State Fire Code and any subsequent revisions.

(C) *Installation requirements*.

(1) Detectors shall be installed in sleeping areas and rooms;

(2) All detectors shall be installed on the ceiling and shall be mounted not less than 6 inches from a wall. When detectors cannot be installed on the ceiling they may be installed on a wall and shall be mounted at least 12 inches down from the ceiling;

(3) Detectors shall be installed in every room in the path of the means of egress from the sleeping area to the door leading from the guestroom or suite; and

(4) Detectors shall be installed in each story within the guestroom, dwelling unit, or suite, including basements. For guestrooms, dwelling units, or suites with split-levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level; provided, that the lower level is less than 1 full story below the upper level.

(D) *Power source and interconnection*. Power source and interconnection shall be in accordance with the State Building Code and the State Fire Code and any subsequent revisions.

(E) *Inspection and failure to comply*. All premises required to be provided with fire warning systems as required by this Code shall be open to inspection by duly designated officers of the city at any and all reasonable times.

(F) *Failure to comply*. It is unlawful for any person to fail to comply with the provisions of this section and fail to keep the warning devices above described fully operational at all times. Each day of failure to comply with this section constitutes a separate offense. The provisions of this division (F) are not intended to be an exclusive remedy. The city may, at its option, proceed in a civil action to restrain the continued occupancy of any hotel, motel, dwelling unit, rooming house, or other structure in which sleeping rooms are occupied by tenants, until the provisions of this section are fully complied with.

(2013 Code, § 4.50) (Ord. 1, passed 4-1-1978; Ord. 666, passed 5-29-2003) Penalty, see § 111.99

§ 111.16 MOBILE HOME PARK REGULATIONS.

(A) *General requirements*.

(1) Excellence of design, development, and maintenance is the desired objective;

(2) Approved mobile home parks shall contain at least 50 fully developed mobile home sites;

(3) All mobile home courts shall have at least 10% of land areas developed for recreational use (tennis courts, children's play equipment, swimming pool, golf greens, and the like) developed and maintained at the owners/operator's expense;

(4) All land areas shall be properly maintained, adequately drained, free from dust, clean, and free from refuse, garbage, rubbish, or debris;

(5) The requirements of a conditional use permit shall prevail over any and all other requirements, standards, or conditions;

(6) A conditional or special use permit for a mobile home park shall be reviewed once a year and revoked if development and maintenance is not in full compliance thereof;

(7) A compact hedge, fence, or landscaped area shall be installed around each mobile home park and be maintained in first class condition at all times as approved;

(8) Advertising shall be limited to 1 name plate not to exceed 25 square feet, with lighting, height, and location as approved by the city and have a 15 feet setback from the front lot line;

(9) The operator of every mobile home park shall maintain a registry in the operator's office showing:

(a) The name and address of each permanent resident; and

(b) The make, type, and license number of each mobile home and automobile.

(10) A map of the mobile home park shall be displayed at the entrance to the park and be illuminated during all hours of darkness;

(11) The corners of each mobile home site shall be clearly marked;

(12) The mobile home park grounds shall be lighted as approved by the city from sunset to sunrise;

(13) All utility installation to site and individual mobile home sites shall be as approved by the city;

(14) All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes. Utility mains shall not be under mobile homes;

(15) The proposed method of garbage, waste, and trash disposal must be as approved by the city;

(16) Fire hydrants should be located within 300 feet of any unit;

(17) Dogs and animals shall not be permitted to run at large within the mobile home park, nor brought into public buildings, or in or on playgrounds;

(18) No public address or loud speaker system shall be permitted;

(19) All mobile home parks must have an area or areas set aside for general storage, which must contain 96 square feet per unit and be enclosed by a security fence of chain link with redwood slats;

(20) Each mobile home park shall provide off-street parking for 2 cars at each mobile home lot, with a minimum parking space of 440 square feet;

(21) Roadways (public or private):

(a) Shall be paved as approved by the city;

(b) All roads shall have a concrete (mountable, roil type) curb and gutter;

(c) Right-of-ways shall be no less than 60 feet in width;

(d) Access drives off roads to all parking spaces and mobile home sites shall be paved;

(e) All streets shall be developed as approved by the city;

(f) Street trees as approved shall be planted at intervals of 1 per mobile home unit; and

(g) Access to mobile home parks shall be as approved by the city.

(22) No commercial sales shall be carried on, on the premises. The term ***MOBILE HOME PARK*** shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sales;

(23) The Planning Commission may require additional information as it deems necessary to ensure the health, welfare, and safety of the tenants, developer, and court;

(24) Any lawful nonconforming use of land existing at the effective date of this section shall be governed by the provisions of the nonconforming use provision of this section. Entrance fee - maximum $25 - NO REFUND ON ENTRY FEE;

(25) A concrete slab or patio shall be constructed on the ground beside each mobile home parking space. This slab shall be not less than 160 square feet and 4 inches thick; and

(26) Location and size of all streets abutting the mobile home park and all driveways from such streets to the mobile home park shall be passable to emergency vehicles at all times.

(B) *Site requirements*.

(1) Each mobile home site shall contain at least 5,000 square feet of land area for the exclusive use of the occupant:

(a) *Width*: No less than 50 feet; and

(b) *Depth*: No less than 100 feet.

(2) The area occupied by a mobile home shall not exceed 50% of the total area of a mobile site; land may be occupied by a mobile home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure; unoccupied land shall be landscaped; non-mobile home sites shall be landscaped in accordance with approved plans.

(3) The yards shall be landscaped except for necessary driveway and sidewalk needs.

(4) Each mobile home site shall have the following features:

(a) Frontage on an approved roadway;

(b) Each site shall be properly landscaped with at least 1 tree, grass, and the like (with consideration of weather conditions);

(c) No mobile home shall be parked closer than 5 feet to the side lot lines nor closer than 15 feet to the front lot line, or within 15 feet of the rear lot line;

(d) There shall be an open space of at least 25 feet between the sides of the adjacent mobile home;

(e) Automobiles shall not be parked nearer than 5 feet to any side lot line; and

(f) Mobile home sites with frontage to public streets shall conform to all setback and other requirements of the zoning district in which said site is located.

(5) The source of fuel for cooking, heating, or other purposes at each mobile home site should be connected to city or public utilities when available and where possible. All mobile homes must be connected to the public water and sanitary sewer systems. Plans for disposal of surface storm water must be approved by the city.

(6) No mobile home, off-street parking space, or building shall be located within 20 feet of the exterior boundary of any mobile home park.

(C) *Structure requirements*.

(1) Every structure shall be developed and maintained in a safe, approved, and substantial manner. The exterior of such structures shall be kept in good repair.

(2) Mobile homes shall be prohibited that:

(a) Do not conform to the requirements of the State Vehicle Code;

(b) Are in an unsanitary condition or having an exterior in bad repair; and

(c) Are structurally unsound and do not protect the inhabitants against all elements.

(3) No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment. The area beneath a mobile home shall been enclosed except that such enclosure must be openable for inspection.

(4) It is unlawful for any person to erect, place, construct, reconstruct, relocate, alter, maintain, use, or occupy a cabana or structure in a mobile home park without the written consent of the owner or operator of the mobile home park.

(D) *Permit requirements*.

(1) Five copies of a plot plan drawn to scale and showing:

(a) Location and size of mobile home park;

(b) Location and size of all mobile homesites storage areas, recreation areas, laundry drying areas, roadways, parking sites, and all setback dimensions (parking spaces, exact mobile home sites, and the like);

(c) Detailed landscaping plans and specifications with time limited based on occupancy;

(d) Location and width of sidewalks;

(e) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, and gas service;

(f) Road construction plans and specifications;

(g) Plans for any and all structures; and

(h) Such other information as required or implied by these mobile home park standards or requested by public officials.

(2) Name and address of developer;

(3) Description of the method of disposing of garbage and refuse;

(4) Detailed description of maintenance procedures and ground supervision; and

(5) Description of construction plans (i.e., time involved, cost estimates, stage development, if any, and so on).

(E) *Unlawful act*. It is unlawful for any person to violate the provisions of this section. The imposition of 1 penalty for any violation of this section shall not excuse the violation or permit it to continue but the owner of the premises where the violation occurred shall be required to ready the condition which constitutes a violation within a reasonable time; and unless a longer period of time is allowed for correction of the condition, each 10 days that prohibited conditions are maintained shall constitute a separate violation.

(2013 Code, § 4.60) (Ord. 336, passed 3-15-1972; Ord. 337, passed 7-23-1992) Penalty, see § 111.99

§ 111.17 MANUFACTURED HOME PARK CLOSINGS.

(A) *Purpose*. In view of the peculiar nature and problems 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 compensation to displaced residents of such parks. The purpose of this section is to require park owners and purchasers of manufactured home parks to pay displaced residents reasonable relocation costs and additional compensation to displaced residents and, where possible, to provide tax increment funds by the city to assist the park owner or purchaser in the payment of these costs, pursuant to the authority granted under M.S. § 327C.095, as it may be amended from time to time.

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

CLOSURE STATEMENT. A statement prepared by the park owner clearly stating the park is closing, addressing the availability, location, and potential costs of adequate replacement housing within a 25-mile radius of the park that is closing and the probable relocation costs of the manufactured homes located in the park.

DISPLACED RESIDENT. A resident of an owner-occupied manufactured home who rents a lot in a manufactured home park, including collectively the members of the resident's household, as of the date the park owner submits a closure statement to the City's Planning Commission.

LOT. An area within a manufactured home park, designed, or used for the accommodation of a manufactured home.

MANUFACTURED HOME. A structure, not affixed to or part of real estate, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in it.

MANUFACTURED HOME PARK. Any site, lot, field, or tract of land upon which 2 or more occupied manufactured homes are located, whether free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the ***MANUFACTURED HOME PARK***. This definition does not include facilities which are open only during 3 or fewer seasons of the year.

PARK OWNER. The owner of a manufactured home park and any person acting on behalf of the owner in the operation or management of a park.

PERSON. An individual, corporation, firm partnership, incorporated, or unincorporated association or any other legal or commercial entity.

(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 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 City's Planning Commission.

(D) *Tax increment financing*.

(1) At any time prior to or after delivery of the notice of closing to the Planning Commission, but prior to the public hearing set forth in division (F) below, the park owner or prospective purchaser of the park may make application to the city for the use of tax increment financing to finance the cost of relocating and purchasing the displaced manufactured homes, any incidental costs associated therewith, and any other development expense that the city deems appropriate or eligible for such financing.

(2) The city in its sole and unlimited discretion may determine whether tax increment financing should be used for such purposes. If the city determines that tax increment financing should not be used for such purposes, the park owner can elect to rescind its notice of closure and resume operation of the manufactured home park, provided, however, that notice of any such rescission shall be given to park residents no later than 90 days after the notice of closure has been given.

(E) *Notice of public hearing*. The Planning Commission 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 10 days prior to the public hearing to a resident of each manufactured home in the park stating the time, place, and purpose of the hearing. The park owner shall provide the city with a list of the names and addresses of at least 1 resident of each manufactured home in the park at the time the closure statement is submitted to the Planning Commission.

(F) *Public hearing*. A public hearing shall be held before the City Council within 90 days after receipt of the notice of closing for the purpose of reviewing the closure statement and evaluating the impact that the park closing may have on displaced residents and the park owner.

(G) *Payment of relocation costs*.

(1) (a) After service of the closure statement by the park owner and completion of the public hearing and upon submittal by the displaced resident of a contract or other verification of relocation expense, the park owner shall pay to the displaced resident the reasonable cost of relocating the manufactured home to another manufactured home park located within a 25-mile radius of the park that is being closed, converted to another use, or ceasing operation. Relocation costs must be paid not less than 90 days prior to the closing of the park or its conversion to another use.

(b) Reasonable relocation costs shall include:

1. The actual expenses incurred in moving the displaced resident's manufactured home and personal property, including the reasonable cost of dissembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings, which were not acquired after notice of closure or conversion of the park, and utility "hook-up" charges;

2. The cost of insurance for the replacement value of the property being moved; and

3. The cost of reasonable repairs or modifications that are required in order to physically move the manufactured home from its existing lot to the replacement lot, including repairs or modifications necessary to qualify the home for occupancy in another manufactured home park.

(2) Relocation costs shall not include payments paid on behalf of a displaced resident by the park owner or purchaser or by the

owner of any manufactured home park to which the displaced resident voluntarily moves.

(3) The total amount of relocation payments paid to a displaced resident shall not exceed the estimated market value of the home as determined in division (H)(1) below.

(H) *Payment of additional compensation.*

(1) (a) If a resident cannot or chooses not to relocate the manufactured home within a 25-mile radius of the park that is being closed due to a structural or age limitation of the manufactured home or the lack of any available lot space within the 25-mile radius, then in lieu of the above relocation payment, a displaced resident is entitled to tender the title to the manufactured home and be paid an amount equal to the estimated market value of the manufactured home as determined by an independent appraiser knowledgeable in the valuation of manufactured homes and giving due consideration to the value and condition of the home. The city shall select the appraiser and the park purchaser shall pay for the cost of the appraisal.

(b) The purchaser or park owner shall pay such compensation upon transfer of title to the home. Such compensation shall be paid to the displaced resident no later than 90 days prior to the closing of the park or its conversion to another use, and the park owner shall receive title and possession of the manufactured home upon payment of such compensation.

(2) If a displaced resident cannot or chooses not to relocate the manufactured home within a 25-mile radius of the park that is being closed due to a structural or age limitation of the manufactured home, and the resident elects not to tender title to the manufactured home, the resident is entitled to relocation costs equal to an average of relocation costs paid to other residents in the park. Payment of the average relocation costs shall be made as follows: 50% within 10 days of application for the funds; and 50% upon the removal of the manufactured home and any structures and debris from the manufactured home park. Payment for double-wide manufactured homes shall be in an amount equal to twice the average relocation costs paid to owners of single-wide manufactured homes.

(I) *Cap on payments.*

(1) If tax increment financing is used to assist in the payment of the relocation costs and other compensation required by this section, the park owner and purchaser of the park shall be required to pay relocation costs and other compensation that do not exceed 20% of the purchase price of the park or the assessed value of the park, whichever is greater.

(2) (a) If tax increment financing is not used or if such financing is not sufficient to pay the full amount required to be paid to all displaced residents, the total relocation costs and other compensation to be paid to all displaced residents by the park owner and purchaser of the park and by the city shall not exceed the following percent of the purchase price of the park or the assessed market value of the park, whichever is greater.

Park Owner	***City Portion (If Needed)***	***Purchase Price/Assessed Value***
35%	10%	0 - $299,999
$90,000 + 7.5%	10%	$300,000 - $599,999
$90,000 + 7.5%	5%	$600,000 - $699,999
20%	0%	Over $700,000

(b) The city's portion shall be paid only if the amount required to be paid by the park owner is insufficient to pay all displaced residents the total amount required by divisions (G) and (H) above. If the total amount due to displaced residents exceeds the above percentages, payments to displaced residents will be made on a pro rata basis.

(3) The purchase price of the park includes all consideration received by the park owner including, but not limited to, cash, buyer's forgiveness of seller's indebtedness, liens, mortgages, or other encumbrances paid by buyer on seller's behalf, or special assessments paid or assessed by buyer. Upon request by the city, the park owner and purchaser shall provide the city with a complete itemization and documentation of the sale prior to the public hearing.

(4) Nothing in this section is intended to prevent the city or the park owner from obtaining economic assistance in addition to tax increment financing from any governmental entity to assist in the payment of amounts due to displaced residents.

(J) *Verification of costs*. The displaced resident must submit a contract or other verified cost estimate for relocating the manufactured home to the park owner for approval as a condition to the park owner's liability to pay relocation expenses. If the park owner refuses to pay the contract or other verified costs estimate, the park owner shall arrange for relocating the manufactured home and pay the relocation costs identified in division (G) above.

(K) *Applicability*. This section applies only to the closing of manufactured home parks that are existing in the city as of the effective date of this section.

(2013 Code, § 4.61) (Ord. 543, passed 4-1-1999)

§ 111.18 RESIDENTIAL RENTAL PROPERTY REGISTRATION.

(A) *Purpose*.

(1) The purpose of this section is to protect the public health, safety, and welfare of the community at large, and the residents of residential rental properties in the city. The purpose of this section is also to ensure that rental housing in the city is decent, safe, and sanitary, and is so operated and maintained as not to become a nuisance to the neighborhood or an influence that fosters blight and deterioration, or does not create a disincentive to reinvest in the community.

(2) The operation of residential rental properties is a business enterprise that entails certain responsibilities. Owners and operators are responsible for taking such reasonable steps as are necessary to ensure that the residents of the city who occupy such rental properties may pursue the quiet enjoyment of the normal activities of life in their surroundings that are: safe, secure, and sanitary; free from noise, nuisances, or annoyances; and free from conditions that endanger the health or safety of persons; and the security of property.

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

APARTMENT BUILDING. A multi-family building containing dwelling units in a stacked configuration, having common walls and floors/ceilings.

APPLICANT. The natural person completing the registration form prescribed by this section.

DWELLING UNIT. A single unit providing a living space delineated by partitions of any kind for 1 or more persons.

MULTIPLE-RESIDENTIAL BUILDING. A building with any dwelling joined to another dwelling at 1 or more sides by a party wall or walls, including apartments, townhomes, twinhomes, duplexes, or quadhomes.

RENTAL MANAGER. Any natural person who has been delegated by the residential rental property owner in charge, care, or control of a residential rental property, and is able to respond in person to issues related to the residential rental property.

RESIDENTIAL RENTAL PROPERTY. Any building, or 1 or more portions thereof, occupied or intended to be occupied for residential purposes by a residential tenant.

RESIDENTIAL RENTAL PROPERTY OWNER. Any person or entity owning residential rental property within the city.

RESIDENTIAL TENANT. A person who does not own, but occupies a dwelling for residential purposes, for payment of a fee or other compensation to the owner, under a lease or contract, whether written or verbal.

(C) *Applicability and scope*. This section applies to any dwelling, and any dwelling unit therein, that is a residential rental property, including garages, storage buildings, and appurtenances. This section does not apply to State Department of Health-licensed rest homes, convalescent care facilities, group homes, and nursing homes; hotels, motels; and owner-occupied units.

(D) *Rental manager required*.

(1) Each residential rental property owner shall appoint a rental manager upon whom the city may lawfully serve notices pertaining to the administration of this or any other section of this code of ordinances or state or federal law, service of which shall be as effective as if made upon such residential rental property owner.

(2) A residential rental property owner may serve as the rental manager, if all requirements of a rental manager prescribed within this section are met by the residential rental property owner.

(E) *Registration*.

(1) All residential rental properties shall be registered with the city by either the residential rental property owner or rental manager. Registration of each residential rental property shall be made on a separate form provided by the city and shall include the following information:

(a) The name, address, and telephone number of the residential rental property owner and rental manager;

(b) The name, address, and telephone number of the natural person completing the registration form;

(c) The address of the residential rental property. In the case of an apartment building, the applicant shall provide the address and name for the building, as well as the number of dwelling units contained therein; and

(d) Verification that either the residential rental property owner or rental manager conducts a criminal background check on each and every residential tenant;

(e) Verification that a written lease exists for the residential rental property and each unit dwelling thereon; and

(f) Verification that a written lease addendum commonly known as a "drug free/crime free lease addendum" exists for each and every written lease entered into after the effective date of this section.

(2) Upon receipt of a fully completed registration form, the city shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable and state the following: the date of issuance; the address of the residential rental property and the name, if an apartment building, of the residential rental property owner; the name(s) of the rental manager(s); and the number of dwelling units located within the residential rental property. Within 30 days of a transfer of ownership, change in rental manager, change in the number of rental units, or change in dwelling occupancy from owner occupancy to rental tenant occupancy, the residential rental property owner or rental manager shall complete and submit a registration form for each and every residential rental property affected by the transfer or change.

(3) A residential rental property owner owning residential rental property at the time of the adoption of this section shall have 180 days after its effective date to comply with the registration provisions contained therein.

(F) *Registration fee*. There is no fee for registration.

(G) *Minnesota Crime Free Multi-Housing Program.*

(1) The city has established a rental owner educational program consistent with the Minnesota Crime Free Multi-Housing Program. The educational program includes information such as: applicant screening, rental agreements, identification of illegal activity, eviction process, the roles of working with the police, crime prevention, code enforcement and public health, licensing and inspections, and active property management. All residential rental property owners or rental managers must attend phase one of the Crime Free Multi-Housing Program within one year after the issuance of a certificate of registration. Either the property owner or manager must hold a phase one certification at all times. Phase one training will be conducted on a regular basis. Program attendees will be required to pay a participation fee in an amount determined to cover the direct cost of the program.

(2) The city will recognize proof of phase one certifications from other entities.

(3) An owner or property manager operating a single-family home or property with 3 or fewer units need only complete phase one of the Crime Free Multi-Housing Program. Owners or property managers with 4 or more units are required to complete all 3 phases of the Crime Free Multi-Housing Program.

(4) A residential rental property owner whose only rental dwelling is a single-family dwelling homesteaded by a relative is exempted from the program.

(5) All residential rental property leases entered into after the effective date of this section shall contain the written lease addendum commonly known as the "Drug Free/Crime Free Lease Addendum."

(Ord. 870, passed 6-4-2013)

§ 111.99 PENALTY.

(A) (1) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act

prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2) A violation of this chapter is a misdemeanor (M.S. § 326B.121, as it may be amended from time to time).

(2013 Code, § 4.99)

(B) (1) Any provision of § 111.17 may be enforced by injunction or other appropriate civil remedy,

(2) The city shall not issue a building permit in conjunction with reuse of manufactured home park property unless the park owner has paid reasonable relocation costs and the purchaser of the park has purchased those manufactured homes tendered for sale not less than 30 days after the closing of the park or its conversion to another use. The park owner shall not have any liability for the payment of any claims made after such date.

(2013 Code, § 4.61)

(C) (1) It is a misdemeanor for any person to provide false information on the prescribed registration form per § 111.18.

(2) It is a misdemeanor for any person or entity to operate or cause to be operated any property as a residential rental property without first registering with the city as set forth in § 111.18.

(3) It is a misdemeanor for any residential rental property owner or rental manager to fail to attend phase one of the Minnesota Crime Free Multi-Housing Program training within 1 year after the issuance of a certificate of registration. It is also a misdemeanor for any residential property owners or managers of 4 or more units to fail to complete all 3 phases of the Crime Free Multi-Housing Program within 1 year after issuance of a certificate of registration.

(4) It is a misdemeanor for a residential property owner or rental manager to rent residential property without first conducting a background check and then entering into a written lease that contains the written lease addendum commonly known as the "Drug Free/Crime Free Lease Addendum."

(Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 543, passed 4-1-1999; Ord. 800, passed 7-31-2008; Ord. 870, passed 6-4-2013)

CHAPTER 112: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Section

§ 112.01 PURPOSE.

This chapter is not intended to interfere with legitimate business activities of peddlers, solicitors, and transient merchants as the same are herein defined, whether same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out the illegitimate or confidence operators and to regulate and control all those who would use their unique presence on property within the city, for purposes of harassment, nuisance, theft, or other unlawful activities.

(2013 Code, § 6.21) (Ord. 886, passed 7-17-2014)

§ 112.02 DEFINITIONS.

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

PEDDLER. Any person who goes door to door, street to street, or place to place, to offer or display for sale, and delivering immediately upon sale, goods, wares, merchandise, or services transported with that person.

SOLICITOR. Any person who, for solely commercial sales purposes, goes door to door, street to street, or place to place, to obtain or attempt to obtain orders for goods, wares, merchandise, or services as shown or described by sample, catalog, or some other form, for which delivery or performance will occur at a later time.

TRANSIENT MERCHANT. Any person, who engages in, or transacts any temporary and transient business in the city, selling goods, wares, or merchandise; and, who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, vacant, or occupied lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise. The term ***TRANSIENT MERCHANT*** does not include a seller or exhibitor in a firearms collector show involving 2 or more sellers or exhibitors.

(2013 Code, § 6.21) (Ord. 886, passed 7-17-2014)

§ 112.03 LICENSE REQUIRED.

It is unlawful for any person to engage in business as a peddler or transient merchant in the city without first obtaining a license therefor from the city. A license must be applied for at least 10 days prior to the date when the activity to be carried on is to commence. The applicant shall completely fill out an application for a license as prepared by the city and pay the applicable license fee.

(2013 Code, § 6.21) (Ord. 886, passed 7-17-2014) Penalty, see § 112.99

§ 112.04 REGISTRATION REQUIRED FOR SOLICITORS.

It is unlawful for any person to engage in business as a solicitor without first registering with the city. Each person conducting soliciting activities must completely fill out a registration form as prepared by the city.

(Ord. 886, passed 7-17-2014) Penalty, see § 112.99

§ 112.05 CONDITIONS OF LICENSING.

(A) *Separate licenses and registration*. Each individual engaged as a peddler or person accompanying a licensee at work must secure a separate license. Each individual engaged as a solicitor or person accompanying a solicitor at work must separately register with the city. Licenses and registration are non-transferable. Proof of license or registration shall be displayed at all times.

(B) *Practices prohibited*. It is unlawful for any person engaged in business as a peddler, solicitor, or transient merchant to do the following:

(1) Conduct business before 8:00 a.m. or after 8:00 p.m.;

(2) Call attention to that person's business by crying out, blowing a horn, ringing a bell, or by any loud or unusual noise, or by use of any amplifying device;

(3) Fail to display proof of license or registration, and produce valid identification when requested;

(4) Remain on the property of another when asked to leave;

(5) Claim endorsement by the city based on license or registration: and

(5) Conduct business in any manner as to create a threat to the health, safety, and welfare a specific individual or the general public.

(2013 Code, § 6.21) (Ord. 886, passed 7-17-2014) Penalty, see § 112.99

§ 112.06 LICENSING AND REGISTRATION EXEMPTIONS.

(A) This chapter does not apply to the following:

(1) Door to door, street to street, or place to place advocacy or dissemination of religious, political, social, or ideological beliefs. If the advocacy or dissemination of the person's beliefs is merely incidental to a commercial activity, a person is not exempt from licensing or registration requirements:

(2) Solicitation of orders for future door to door delivery of newspapers, or to any person who may sell or peddle the products of the farm or garden occupied and cultivated by such person;

(3) This chapter shall not apply to persons licensed for the sale of milk, cream, dairy products, and bakery products; and

(4) This chapter shall not apply to persons making deliveries of food and dairy products to the customers on his or her established delivery route.

(B) These exemptions shall not excuse a person from complying with any other applicable provision of city ordinances.

(2013 Code, § 6.21) (Ord. 886, passed 7-17-2014)

§ 112.07 SUSPENSION OR REVOCATION OF A LICENSE.

(A) Any license issued or registration obtained under and pursuant to this chapter may be suspended by a police officer if the licensee or registrant has violated § 112.06, or is otherwise conducting business in such a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state, or federal laws or regulations. Falsification of information required for a license or registration is also grounds for denial, suspension, or revocation of a license, or suspension or revocation of registration.

(B) The license or registration shall be automatically revoked if the licensee or registrant does not file an appeal pursuant to this chapter. When taking action on any license issued or registration under this chapter, the police officer shall provide the licensee or registrant with verbal or written notice of the alleged violation. The notice shall inform the licensee or registrant of their right to be heard before the City Council. The notice shall also inform the licensee or registrant that the license or registration shall be automatically revoked if no appeal is filed within 21 days of the date of the notice by the police officer. Verbal notice shall be confirmed within 5 days by a mailed written notice to the licensee or registrant. The City Council shall not conduct a hearing on the suspension unless a request is made by the licensee or registrant in writing. If a request for a hearing is made, the City Council shall conduct the hearing at the next available City Council session. No City Council resolution or other notice calling for a hearing shall be required.

(C) A licensee or registrant may also be criminally charged for violation of § 130.39, disorderly conduct, or violation of other local, state, or federal laws or regulations.

(2013 Code, § 6.21) (Ord. 886, passed 7-17-2014)

§ 112.08 POSTING OF PLACARD PROHIBITING PEDDLERS.

(A) Any city resident or business wishing to exclude peddlers and solicitors from premises occupied by the business or 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"; or some comparable statement. Such placard shall be at least 3-1/2 inches long and 3-1/2 inches wide and the printing thereon shall be at least 1/2 inch in height. 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.

(B) Violation of this chapter on shall result in the city temporarily suspending the license or registration pursuant to § 112.07 or initiating revocation proceedings.

(2013 Code, § 6.21) (Ord. 756, passed 5-11-2006; Ord. 886, passed 7-17-2014) Penalty, see § 112.99

§ 112.09 EFFECTIVE DATE.

Sections 112.01 through 112.09 become effective from and after its passage and publication.

(Ord. 886, passed 7-17-2014)

§ 112.10 TRANSIENT MERCHANT LICENSE FEES.

Transient merchant license fees for the city shall be as follows:

Background	$50
One year	$160
Six month	$105
Weekly	$50

(Ord. 889, passed 6-26-2014)

§ 112.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(A) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor.

(B) *Petty misdemeanor*. As to any violations not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 6.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 352, passed 1-7-1993)

CHAPTER 113: PAWNBROKERS, PRECIOUS METAL DEALERS, AND SECOND-HAND DEALERS

Section

§ 113.01 PURPOSE.

The City Council finds that pawnbrokers, precious metal dealers, and second-hand dealers can provide an opportunity for the commission and concealment of crimes, because such businesses have the ability to receive and transfer stolen property easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers, precious metal dealers, and second-hand dealers. The purpose of this chapter therefor is to prevent pawnbroking, precious metal, and second-hand businesses from being used as facilities for commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995)

§ 113.02 DEFINITIONS.

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

ITEM CONTAINING PRECIOUS METAL. An item made in whole or in part of metal and containing more than 1% by weight of silver, gold, or platinum.

PAWNBROKER. A person engaged in whole or in part in the business of lending money on the security of tangible personal property actually delivered into the person's possession, or in the business of purchasing tangible personal property to be left with the person on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. No bank, savings and loan association, or credit union shall be deemed a ***PAWNBROKER*** for purposes of this chapter.

PAWNSHOP. Any business establishment operated by a pawnbroker.

PRECIOUS METAL DEALER.

(1) Any person engaging in the business of buying coins or second-hand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects, as specified in M.S. § 325F.731, as it may be amended from time to time.

(2) Persons conducting the following transactions shall not be deemed to be ***PRECIOUS METAL DEALERS***:

(a) Transactions at occasional garage sales, rummage sales, estate sales, or farm auctions, except that precious metal dealers must comply with the requirements of M.S. §§ 325F.734 to 325F.742, as they may be amended from to time, for these transactions;

(b) Transactions regulated by M.S. Ch. 80A, as it may be amended from time to time;

(c) Transactions regulated by the Federal Commodity Futures Commission Act, being 7 U.S.C. 1 et seq.;

(d) Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial

manufacturer, dental lab, dentist, or agent thereof;

(e) Transactions involving the purchase of photographic film, such as lithographic and X-ray film, or silver residue or flake recovered in lithographic and X-ray film processing;

(f) Transactions involving coins, bullion, or ingots;

(g) Transactions in which the second-hand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the second-hand item, except that a person who is a precious metal dealer by engaging in a transaction which is not exempted by this chapter must comply with the requirements of M.S. §§ 325F.734 to 325F.742, as they may be amended from time to time;

(h) Transactions between precious metal dealers if both dealers are licensed under M.S. § 325F.733, as it may be amended from time to time, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under M.S. § 325F.733, as it may be amended from time to time; and

(i) Transactions in which the buyer of the second-hand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than $2,500 for second-hand items containing precious metals purchased within any period of 12 consecutive months.

PRECIOUS METALS. Silver, gold, and platinum.

SECOND-HAND DEALER.

(1) A person engaged in the business of buying previously used, rented, owned, or leased goods of any kind, including, but not limited to, coins, gold, silver, jewelry, metals, guns, and wrecked or dismantled motor vehicles or motor vehicles intended to be wrecked or dismantled.

(2) Persons conducting the following transactions shall not be deemed to be ***SECOND-HAND DEALERS***:

(a) Transactions where all the following are present:

1. The sale is held on property occupied as a dwelling by the seller, or owned, rented, or leased by a charitable organization;
2. The items offered for sale are owned by the occupant;
3. No sale exceeds a period of 72 consecutive hours;
4. No more than 4 sales are held in any 12-month period; and
5. None of the items offered for sale was purchased for resale or received on consignment for the purpose of resale.

(b) Sales of goods at an auction held by an auctioneer;

(c) Transactions involving goods taken as partial or full payment for new goods, where such business is incidental to and not the primary business of the person;

(d) Transactions by a business specializing in the sale of antiques and other goods more than 20 years old, where any other transactions are incidental to the antique business;

(e) The sale and exchange of used books, where the business gives only credit and not cash for used books it acquires from customers;

(f) Purchases and sales of military goods, where all purchases are directly from offices of the U.S. government or military surplus wholesalers. Military clothing also may be purchased from current and former military personnel;

(g) Bulk sales of property from a merchant, manufacturer, or wholesaler having an established place of business, or goods sold at open sale from bankrupt stock;

(h) Sale of goods at an exhibition, providing the exhibition does not last longer than 10 days in any 12-month period;

(i) Sales of automobiles by a licensed automobile dealer;

(j) Sales made by the Sheriff or other public officials in the discharge of their official duties;

(k) Sales made by assignees or receivers appointed by the state or a court to make sales for the benefit of creditors; and

(l) Sales by a charitable organization of donated items.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995) Ord. 454, passed 6-4-1996; Ord. 460, passed 7-8-1996) Penalty, see § 113.99

§ 113.03 LICENSE REQUIRED.

No person shall operate as a pawnbroker, precious metal dealer, or second-hand dealer, operate a pawnshop, or work in the pawnbroker's, precious metal dealer's, or second-hand dealer's business without a license therefor from the city.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995) Penalty, see § 113.99

§ 113.04 APPLICATION.

All applications for a license shall comply with the requirements of § 110.002, and also contain the following information:

(A) Whether the applicant holds a current pawnbroker, precious metal dealer, or second-hand goods dealer license from any other governmental unit;

(B) Whether the applicant is licensed under either M.S. § 471.924, as it may be amended from time to time, or M.S. §§ 325F.731 through 325F.744, as they may be amended from time to time; and

(C) Whether the applicant has previously been denied a pawnbroker, precious metal dealer, or second-hand goods dealer license from any governmental unit.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995)

§ 113.05 LICENSING REQUIREMENTS.

(A) *Liquor license*. No license shall be issued to an applicant who holds a liquor license under § 114.14.

(B) *Gambling*.

(1) No license shall be issued to an applicant who keeps, possesses, or operates, or permits the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punch-boards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash.

(2) No gambling equipment authorized under M.S. §§ 349.11 through 349.60, as they may be amended from time to time, may be kept or operated, and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. Ch. 349A, as it may be amended from time to time.

(C) *Minors*. No license shall be issued to an applicant who is a minor at the time the application is filed.

(D) *Delinquent taxes*. No license shall be issued for an operation on any property on which taxes, assessments, or other financial claims of any governmental entity are due, delinquent, or unpaid. In the event a suit has been commenced under M.S. § 278.01 through 278.03, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding 1 year after becoming due.

(E) *Number of pawnshop licenses issued*. No more than 1 pawnbroker license shall be issued for each 15,000 population within the city as calculated by the most recent decennial census or City Council estimate of population in non-census years.

(F) *Distance between pawnshops*. No pawnbroker licensed under this chapter shall be located within 1-1/2 miles, as measured in a straight line from property line to property line, of another licensed pawnbroker establishment.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995; Ord. 848, passed 7-14-

2011) Penalty, see § 113.99

§ 113.06 RESTRICTIONS AND REGULATIONS.

(A) *Hours of operation*. Hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m.

(B) *Inspection*. The licensee shall, at all times, allow the Police Department to enter any portion of the building or property where the licensee's business is located or where goods are stored, for the purpose of inspecting building or property, for inspecting the items therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of, and for the purpose of checking for violations of this chapter.

(C) *Minors*. No licensee shall purchase or receive personal property of any nature on deposit or pledge from any person under the age of 18 years.

(D) *Incompetents*. No licensee shall purchase or receive personal property of any kind from a person who is or appears to be of unsound mind, incompetent, or under the influence of alcohol or drugs.

(E) *Prohibited items*. No licensee shall accept any item of property which contains an altered or obliterated serial number, nor any item of property whose serial number has been removed.

(F) *Licensed vehicles*. No licensee shall accept any vehicle licensed or subject to licensing by the state, unless the vehicle is licensed and operable. The licensee must be shown the title, and the pledger or seller must be named as owner on that title. The title must be clearly visible on the videotape required in this chapter.

(G) *Checks*. All purchases and pawns by a licensee over $60 shall be made by check. No licensee shall purchase or pawn items for more than $60 with cash.

(H) *Interest*. The rate or interest charged on pawned items shall be posted in a clearly visible location in the licensee's building.

(I) *Property of another*. No person may pawn, pledge, sell, leave, or deposit any article of property not their own; nor shall any person offer or attempt to pawn, pledge, sell, leave, or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, leave, or deposit any article of property in which another has a security interest.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995; Ord. 454, passed 6-4-1996; Ord. 460, passed 7-18-1996; Ord. 845, passed 5-12-2011) Penalty, see § 113.99

§ 113.07 IDENTIFICATION OF SELLER OR PLEDGER.

The safety of the public is compromised when stolen property is easily pawned or sold to pawnbrokers, precious metal dealers, or second-hand dealers. Due to the nature of the business of pawnbrokers, precious metal dealers, and second-hand dealers, and the attraction pawnshops, precious metal businesses, and second-hand businesses have to the criminally disposed, special regulation of the transactions is necessary.

(A) A licensee shall not accept items of property unless the seller or pledger provides to the licensee 1 of the following forms of identification. No other form of identification shall be accepted

(1) A valid state driver's license;

(2) A state identification card issued by the Department of Public Safety; or

(3) A photo identification issued by the state of residency of the person from whom the item was received.

(B) A pawnbroker or second-hand goods dealer shall run a videotape during all hours of operation. Tapes shall be retained a minimum of 30 days. The quality of the videotape shall be sufficient to clearly identify the seller or pledger, and to clearly identify the goods involved in the transaction. Each tape shall automatically record the date and time of each transaction. Videotape recordings shall be provided to the Police Department upon request.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995) Penalty, see § 113.99

§ 113.08 RECORD-KEEPING.

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

BILLABLE TRANSACTION. Every reportable transaction except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession.

REPORTABLE TRANSACTIONS. The receipt of any item of property, whether sold or pawned, except:

(a) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said merchandise; and

(b) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and redemption periods have expired.

(B) *Required information*. At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information in a computerized record approved by the Police Department or its designee:

(1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;

(2) The purchase price, amount of money loaned upon, or pledged therefor;

(3) The maturity date of the transaction;

(4) The amount due, including monthly and annual interest rates and all pawn fees and charges;

(5) Date, time, and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;

(6) Full name, residence address, residence telephone number, date of birth, and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes, and color of hair;

(7) The identification number and state of issue from any of the following forms of identification of the seller or pledgor:

(a) Current valid state driver's license;

(b) Current valid state identification card; or

(c) Current valid photo identification card issued by another state or a province of Canada.

(8) The signature of the person identified in the transaction; and

(9) Any other information reasonably required by the Police Department.

(C) *Required fees*. Every licensee shall pay a billable transaction license fee for each billable transaction handled by the licensee. The amount of the fee shall be set by resolution of the Council in an amount that reflects the cost of processing billable transactions. Billable transaction license fees shall be billed monthly and are due and payable within 30 days.

(D) *Modem reporting*.

(1) Licensees must submit every reportable transaction to the Police Department daily 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 using procedures that address security concerns and technological requirements of the licensees and the Police Department.

(2) If a licensee is unable to successfully transfer the required reports by modem, the licensee must have on the premises and available for inspection by the Police Department printed copies of all reportable transactions that have not been reported by modem.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995; Ord. 517, passed 5-7-1998) Penalty, see § 113.99

§ 113.09 HOLDING PERIOD.

(A) Whenever the Police Department notifies the licensee not to sell an item, the item shall not be sold or removed from the licensed premises for a period of 60 days, or until authorized to be released by the Police Department, whichever comes first.

(B) The Police Department may remove items believed to be stolen from the licensee's business and hold them in the Police Department property room until it is determined whether they are stolen or not. Under M.S. § 609.523, as it may be amended from time to time, the Police Department may return stolen property to the owner, with no recompense to the licensee. Upon criminal conviction, restitution may be sought for losses experienced by a licensee. Each licensee is responsible for establishing procedures to avoid receiving stolen property.

(C) Any item pawned to a licensee shall not be sold or otherwise transferred for 60 days after the date of the sale or pawn.

(D) Any item sold to a licensee, for which a weekly report to the police is required under § 113.08(B), shall not be sold or otherwise transferred for 30 days after the date of the sale or pawn.

(E) Each pledger shall be given a deadline for redeeming pawned property, after which date the licensee may sell the item. This date shall be a day on which the licensee is open for regular business.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995; Ord. 454, passed 6-4-1996; Ord. 460, passed 7-18-1996)

§ 113.10 RECEIPT.

(A) The licensee shall provide a receipt to the seller or pledger of any item of property received, which shall include the following information:

(1) The name, address, and phone number of the licensee's business;

(2) The date on which the item was received by the licensee;

(3) A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold;

(4) The signature of the licensee and seller or pledger;

(5) The deadline by which the item must be redeemed by the pledger without date, risk that the item will be sold, and the amount of money necessary to redeem the pawned item on that receipt;

(6) The amount of interest charged on pawned items; and

(7) The name and address of the seller or pledger.

(B) The licensee shall provide a receipt to any purchaser of any item of property for which more than $20 is paid, which shall include the following information:

(1) The name, address, and phone number of the licensee's business;

(2) The date on which the item was sold to the purchaser;

(3) A description of the item and amount paid to the licensee in exchange for the item;

(4) The signature of the licensee and purchaser; and

(5) The name, address, home telephone number, and work telephone number of the purchaser.

(C) A legible copy of each receipt shall be retained by the licensee for at least 4 years. The licensee shall make these records available during regular business hours and at any other reasonable times for inspection by the city.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995; Ord. 454, passed 6-4-1996; Ord. 460, passed 7-18-1996)

§ 113.11 SUSPENSION OR REVOCATION OF LICENSE.

(A) The City Council may suspend or revoke a license upon a finding of a violation of any of the provisions of this chapter or any state statute regulating pawnbrokers, precious metal dealers, or second-hand dealers. Any conviction by the pawnbroker, precious metal dealer, or second-hand dealer for theft, receiving stolen property, or any other crime or violation involving stolen property shall result in the immediate suspension pending a hearing on revocation of any license issued hereunder.

(B) Except in the case of a suspension pending a hearing on revocation, a revocation or suspension by the City Council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The City Council may, without notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the licensee by U.S. mail addressed to the most recent address of the business in the license application.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995)

§ 113.99 PENALTY.

A violation of this chapter is a misdemeanor.

(2013 Code, § 6.28) (Ord. 376, passed 4-28-1994; Ord. 385, passed 9-6-1994; Ord. 397, passed 1-12-1995)

CHAPTER 114: ALCOHOLIC BEVERAGES

Chapter

3.2% Malt Liquor and Wine Licensing and Regulation

3.2% MALT LIQUOR AND WINE LICENSING AND REGULATION

§ 114.01 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. Any beverage containing more than 1/2 of 1% alcohol by volume, including, but not limited to, 3.2% malt liquor, wine, and liquor as defined in this section.

APPLICANT. Any person making an application for a license under this chapter.

APPLICATION. A form with blanks or spaces thereon, to be filled in and completed by the applicant as a request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

3.2 PERCENT MALT LIQUOR. Malt liquor containing not less than 1/2 of 1% alcohol by volume nor more than 3.2% alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein.)

BREWER. A person who manufactures 3.2% malt liquor for sale.

BREWERY. A manufacturer of malt liquor for sale.

CLUB. An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:

(1) Has more than 30 members;

(2) Has owned or rented a building or space in a building for more than 1 year that is suitable and adequate for the accommodation of its members; and

(3) Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution 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.

COMMISSIONER. The State Commissioner of Public Safety.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of liquor except for the incidental sale of ice, tobacco, 3.2% malt liquor, beverages for mixing with liquor, and soft drinks may also be sold, and the establishment may offer recorded or live entertainment and make available coin-operated amusement devices. ***EXCLUSIVE LIQUOR STORE*** also includes an on-sale or combination on-sale and off-sale liquor establishment which sells food for on-premises consumption when authorized by the city.

HOTEL. An establishment where food and lodging are regularly furnished to transients and which has:

(1) A resident proprietor or manager;

(2) A dining room serving the general public at tables and having facilities for seating at least 30 guests at 1 time; and

(3) At least 25 guest rooms.

LICENSE. A document, issued by the city, to an applicant permitting the applicant to carry on and transact the business stated therein.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

LICENSED PREMISES. The premises described in the issued license.

LICENSEE. An applicant who, pursuant to an approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the city for carrying on the business stated therein.

LIQUOR. Ethyl alcohol and distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2% of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)

MALT LIQUOR. Any 3.2% malt liquor, ale, or other beverage made from malt by fermentation and containing not less than 1/2 of 1% alcohol by volume.

MANUFACTURER. Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

MINOR. Any natural person who has not attained the age of 19 years; provided, that after September 1, 1980, the term means any natural person who either:

(1) Has not attained the age of 21 years;

(2) Was born after September 1, 1967.

OFF-SALE. The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

ON-SALE. The sale of alcoholic beverages for consumption on the licensed premises only.

PACKAGE and ***ORIGINAL PACKAGE.*** Any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped, or sealed by a manufacturer or wholesaler.

RESTAURANT. An establishment other than a hotel under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity of not less than 30 guests at 1 time.

SALE, ***SELL***, and ***SOLD.*** All barters and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.

TAPROOM. A licensed premises within or adjacent to a brewery that offers on-sale purchase and

consumption of malt liquor from the brewery and retail sales of related merchandise pursuant to the requirements of M.S. § 340A.301, subds. 6b and 6d, as it may be amended from time to time, and this code of ordinances.

WHOLESALER. Any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

WINE. A beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits, or honey, and also carbonated wine, wine made from condensed grape must, wine made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than 1/2 of 1% nor more than 14% alcohol by volume. (This definition includes so-called "wine coolers" with the alcoholic content limits stated herein.)

(2013 Code, § 5.01) (Ord. 198, passed 7-24-1986; Ord. 225, passed 7-27-1987; Ord. 337, passed 7-23-1992; Ord. 779, passed 7-12-2007; Ord. 891, passed 9-16-2014)

§ 114.02 APPLICATIONS AND LICENSES; PROCEDURE AND ADMINISTRATION.

(A) *Applications*. All applications shall be made at the office of the City Administrator upon forms prescribed by the proper agency of the state together with such additional information as the Council or the City Administrator may desire. All questions asked or information required by application forms shall be answered fully and completely by the applicant.

(B) *False statements*. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work as an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.

(C) *Application, investigation, fee, certificates of occupancy and of compliance*.

(1) *Application and investigation fees*. At the time of the initial application, an applicant for either an off-sale or on-sale license shall pay the city the amount of the application and investigation fees, which investigation fee shall be nonrefundable and to cover the costs of the city for processing of the application and investigation thereof. Such fee shall be fixed and determined by the Council and adopted by resolution, and uniformly enforced. The application and investigation fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective application and investigation fee shall be kept on file in the office of the City Administrator and open to inspection during the regular business hours.

(2) *Investigation and certificates required*.

(a) *Inspection and permits required*.

1. *Original licenses and premises.*

a. Prior to issuing a license for a new facility or existing building which has never had a license hereunder, the facility shall be inspected by the Building Official, the Fire Marshal and Electrical Inspector for full compliance with all applicable codes. Should nonconforming uses or code violations be found, they shall be corrected prior to the issuance of the license.

b. All other requirements herein provided for renewal of license shall be complied with.

2. *Renewal of license. No license shall be renewed if the building does not meet all code terms at renewal time.*

3. *When permits required.*

a. All establishments licensed pursuant to this chapter are required to secure permits prior to any construction, remodeling, or decorating which will alter floor plans, occupant loads, wall, ceiling, or floor covering or any electrical, mechanical, or structural change.

b. Prior to the reissuance of such license, a code compliance certificate must be issued by the Building Official.

(b) *Certificate of occupancy and compliance required for on-sale establishments.*

1. *No license shall be issued if a suitable location is not part of the application and there must be a certificate of occupancy and of code compliance in effect before a license is issued.*

2. *Prior to the issuance of any such certification, the licensed premises shall be connected to public sewer and water except within a planned unit development and there shall be posted therein an occupant load certificate for a maximum permitted occupancy computed by Table 33A of the State Uniform Building Code.*

(c) *Delayed issuance of license*. Notwithstanding the foregoing provisions of this division (C)(2) or division (D)(2) below, the Council may, in its sole discretion and in the case of a new facility, grant an application for a license but direct that the license shall not issue until the applicant has fully complied with all of the requirements of this division (C)(2) and division (D)(2) below. The time lapse between Council action in granting the application and the issuance of the license shall be limited to a 12-month period and if compliance is not completed within such time, a re-application shall be required.

(D) *Action*.

(1) *Granting*. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this chapter. Prior to consideration of any application for a license, the applicant shall furnish a bond and proof of insurance, pay a license fee, and, if applicable, pay the investigation fee.

(2) *Issuance*. If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the city or the proper agency of the state as the case may be. All licenses shall be on a fiscal year basis, July 1 to June

30. For licenses issued and which are to become effective other than on the first day of the licensed year, July 1, the fee to be paid with the application shall be pro-rated on the basis of 1/12 for each calendar month or part thereof remaining in the then current licensed year. Licenses shall be valid only at one location and on the premises therein licensed.

(3) *License refund in certain cases*. In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee, shall cease by reason of the licensee's illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under the license, except when such license is revoked, the city shall, upon the happening of any such event, refund to the licensee, or to the licensee's estate, such part of the license fee paid by the licensee as corresponds to the time such license had yet to run. In the event of death of the licensee, the personal representative is hereby authorized to continue operation of said business for not more than 90 days after the death of such licensee.

(4) *Transfer*. No license shall be transferable between persons. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (D)(4).

(5) *Refusal and termination*. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

(6) *Revocation or suspension*.

(a) The Council shall revoke or suspend, for a period not to exceed 60 days, a license granted under the provisions of this chapter, or impose a civil fine not to exceed $2,000, for each violation on a finding that the licensee has failed to comply with a statute, regulation, or provision of this code of ordinances relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of 3.2% malt liquor, wine, or liquor upon premises of the licensee, or if such revocation is mandatory by statute, if it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided, that revocation shall be ordered upon the third such violation or offense.

(b) No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place, and purpose thereof.

(c) As additional restrictions or regulations on licensees under this chapter, and in addition to grounds for revocation or suspension stated in the this code of ordinances or statute, the following shall also be grounds for such action:

1. The licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of 3.2% malt liquor, wine, or liquor;

2. The licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police;

3. The licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises;

4. The activities of the licensee created a serious danger to public health, safety, or welfare; or

5. The licensee violated the letter or spirit of the state charitable gambling law.

(7) *Corporate applicants and licensees*.

(a) A corporate applicant, at the time of application, shall furnish the city with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Administrator of any change in legal ownership or beneficial interest in such corporation or in such shares.

(b) The Council, or any officer of the city designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business.

(c) The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate

licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on 30 days' notice to the licensee.

(E) *Duplicate license*. Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of $2 for issuance of the duplicate. All duplicate licenses shall be clearly marked "DUPLICATE".

(F) *Posting*. All licensees shall post their licenses in their places of business.

(G) *Unlawful acts*.

(1) *Consumption*. It is unlawful for any person to consume, or any licensee to permit consumption of 3.2% malt liquor, wine, or liquor on licensed premises more than 30 minutes after the hour when a sale thereof can legally be made.

(2) *Removal of containers*. It is unlawful for any on-sale licensee to permit any glass, bottle, or other container, containing more than a trace amount of 3.2% malt liquor, wine, or liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the hour when a sale thereof can legally be made.

(3) *Closing*. It is unlawful for any person, other than an on-sale licensee's bona fide employee actually engaged in the performance of the employee's duties, to be on premises licensed under this chapter more than 30 minutes after the legal time for making licensed sales; provided, however, that this division (G) shall not apply to licensees, employees of licensees, and patrons on licensed premises for the sole purpose of preparing, serving, or consuming food or beverages other than 3.2% malt liquor, wine, or liquor.

(H) *Delinquent taxes and charges*. No license under this chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the city are owed by the applicant and are delinquent and unpaid. For the purpose of this section, ***APPLICANT*** includes persons and related persons (spouses, blood relatives, and spouses of blood relatives):

(1) Owning at least a 50% beneficial interest in the proposed license or in the entity making the application; and

(2) At least an undivided 1/2 interest in the premises proposed to be licensed, or at least a 50% beneficial interest in the entity owning such premises.

(I) *Water and sewer connection requirement.*

(1) No on-sale license under this chapter, except a temporary 3.2% malt liquor license, shall be granted for operation on any premises which does not have city water and sewer connections with suitable lavatory facilities, except within a planned unit development. The Council may waive the requirement of this division (I) for any business having obtained an on-sale license prior to July 1, 1997, and operating at premises where potable water is supplied from a well; provided, that water quality from the well is tested and approved by the State Department of Health in accordance with their standards.

(2) As a condition of receiving a waiver, the license shall comply with all water quality directives of the State Department of Health.

(2013 Code, § 5.02) (Ord. 1, passed 4-1-1978; Ord. 64, passed 6-18-1981; Ord. 124, passed 8-4-1983; Ord. 160, passed 3-14-1985; Ord. 179, passed 8-22-1985; Ord. 195, passed 6-12-1986; Ord. 226, passed 8-27-1987; Ord. 238, passed 12-24-1987; Ord. 271, passed 8-25-1989; Ord. 337, passed 7-23-1992; Ord. 348, passed 12-10-1992; Ord. 440, passed 12-28-1995; Ord. 486, passed 6-12-1997; Ord. 585, passed 11-16-2000; Ord. 779, passed 7-12-2007) Penalty, see § 114.99

§ 114.03 CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

(2013 Code, § 5.03) (Ord. 1, passed 4-1-1978)

§ 114.04 CONVICTION OF CRIME; DENIAL OF LICENSE.

A license may be denied to an applicant by the Council solely or in part due to a prior conviction of a crime by an applicant only upon a finding that such conviction directly relates to the occupation for which the license is sought, and then only after considering evidence of rehabilitation and such other evidence as may be presented, all in accordance with state statutes; provided, however, that an applicant must show that the applicant is presently fit to perform the occupation for which the license is sought.

(2013 Code, § 5.04) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992)

§ 114.05 REQUIRED APPROVALS AND REVIEW.

All 3.2% malt liquor and liquor applications, bonds, and insurance coverage shall be approved by the Council. All bonds and insurance certificates and policies shall be reviewed by the City Attorney as to form before Council approval.

(2013 Code, § 5.05) (Ord. 118, passed 6-30-1983; Ord. 779, passed 7-12-2007)

§ 114.06 FIXING LICENSE FEES.

All license fees provided for in this chapter, including, but not by way of limitation, license fees for on-sale and off-sale of 3.2% malt liquor, temporary on-sale of 3.2% malt liquor, on-sale and off-sale of liquor, on-sale of liquor by clubs, on-sale of wine, brewer taproom license, small brewer license, and consumption and display of liquor, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Administrator, and open to inspection during regular business hours.

(2013 Code, § 5.06) (Ord. 6, passed 5-25-1978; Ord. 779, passed 7-12-2007; Ord. 891, passed 9-16-2014)

§ 114.07 INSURANCE REQUIREMENTS.

(A) *Financial responsibility requirements*.

(1) Whenever an insurance policy or certificate is filed as evidence of financial responsibility as required by this chapter, the applicant shall file with the City Clerk a policy or certificate of insurance showing:

(a) The limits are at least as high as required:

(b) Coverage is effective for at least the license term approved; and

(c) Such insurance will not be canceled or terminated without 10 days' written notice served upon the City Clerk if cancellation is for nonpayment of premium and 30 days' written notice if cancellation is for any other reason.

(2) Cancellation or termination of such coverage shall be grounds for license revocation.

(B) *General liability requirements*. Whenever a general liability (public liability) insurance policy or certificate is required by this chapter, the applicant shall file with the City Clerk a policy or certificate of insurance showing:

(1) The limits are at least as high as required;

(2) Coverage is effective for at least the license term approved; and

(3) The issuing company will endeavor to mail 10 days' written notice to the City Clerk prior to cancellation of the policy. Cancellation or termination of such coverage shall be grounds for license revocation.

(2013 Code, § 5.07) (Ord. 256, passed 10-14-1998)

§ 114.08 MINORS; UNLAWFUL ACTS.

(A) *Consumption*. It is unlawful for any:

(1) Licensee to permit any minor to consume alcoholic beverages on licensed premises; or

(2) Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of such parent or guardian.

(B) *Purchasing*. It is unlawful for any:

(1) Person to sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian;

(2) Minor to purchase or attempt to purchase any alcoholic beverage; and

(3) Person to induce a minor to purchase or procure any alcoholic beverage.

(C) *Possession*. It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

(D) *Entering licensed premised*.

(1) It is unlawful for any minor, as defined in this chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage.

(2) It is not unlawful for any person who has attained the age of 18 years to enter licensed premises for the following purposes:

(a) To perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute;

(b) To consume meals; and

(c) To attend social functions that are held in a portion of the establishment where liquor is not sold.

(3) It is unlawful for a licensee to permit a person under the age of 18 years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

(E) *Misrepresentation of age*. It is unlawful for a minor to misrepresent their age for the purpose of purchasing an alcoholic beverage.

(F) *Proof of age*. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license, a state identification card, or, in the case of a foreign national, by a valid passport.

(2013 Code, § 5.08) (Ord. 198, passed 7-24-1986; Ord. 226, passed 8-27-1987; Ord. 337, passed 7-23-1992) Penalty, see § 114.99

§ 114.09 FINANCIAL RESPONSIBILITIES OF LICENSEES.

(A) *Proof*. No 3.2% malt liquor, wine, liquor, brewer taproom, or small brewer license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by state statutes by filing:

(1) Evidence of financial responsibility as required by state law is furnished by filing a liability insurance policy, a certificate of such insurance or a binder for such coverage in the form and in the amount and conditioned all as required by M.S. § 340A.409, subd. 1(1), as it may be amended from time to time, in force and effect at the time of filing the license application;

(2) A bond of a surety company with minimum coverages as provided in division (A)(1) above; or

(3) A certificate of the State Treasurer that the licensee has deposited with the State Treasurer $100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of $100,000.

(B) *Exemption*. This section does not apply to on-sale 3.2% malt liquor licensees with sales of less than $25,000 of 3.2% malt liquor for the preceding year or off-sale 3.2% malt liquor licensees with sales of less than $50,000 of 3.2% malt liquor for the preceding year. This exemption shall not apply where sales are made on public property. All licensees desiring to claim this exemption must prove entitlement thereto in such a manner as the Council shall by resolution from time to time determine.

(C) *Delayed issuance of license*. Notwithstanding the foregoing provisions of this section, the Council may, in its sole discretion and in the case of a new facility, grant an application for a license but direct that the license shall not be issued until the applicant has fully complied with all of the requirements of this section. The time lapse between Council action in granting the application and the issuance of the license shall be limited to a 12-month period and if compliance is not completed within such time a re-application shall

be required.

(2013 Code, § 5.09) (Ord. 124, passed 8-4-1983; Ord. 179, passed 8-22-1985; Ord. 193, passed 5-29-1986; Ord. 195, passed 6-12-1986; Ord. 198, passed 7-24-1986; Ord. 337, passed 7-23-1992; Ord. 440, passed 12-28-1995; Ord. 513, passed 2-5-1998; Ord. 779, passed 7-12-2007; Ord. 891, passed 9-16-2014) Penalty, see § 114.99

§ 114.10 ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.

It is unlawful for any person to introduce upon, or have in the person's possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell 3.2% malt liquor, and for any person to possess 3.2% malt liquor as a result of a purchase from those organizations holding temporary licenses.

(2013 Code, § 5.091) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 779, passed 7-12-2007) Penalty, see § 114.99

§ 114.11 CONSUMPTION AND POSSESSION ON PUBLIC STREETS, PROPERTY, AND THE LIKE.

(A) Except as otherwise provided for in § 91.03(O), it is unlawful for any person to consume, or possess in an unseated container, any alcoholic beverage on any city park, street, public property, or private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council.

(B) It is also unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any private property of another which is not a private parking lot to which the public has access, without a specific oral or written invitation or permit to do so from the owner, lessee, or other person in lawful possession of such property; provided, that this section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk.

(C) For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers; provided, however, that it is not a violation of this section to consume or possess in an unsealed container any 3.2% malt liquor in a city park where such possession and consumption is in a picnic, grandstand, or shelter area; provided further, however, that this exception pertaining to 3.2% malt liquor does not apply during the time for which the city has issued a temporary 3.2% malt liquor license in conjunction with a civic or community event being held at a city park.

(2013 Code, § 5.092) (Ord. 198, passed 7-24-1986; Ord. 779, passed 7-12-2007; Ord. 802, passed 7-10-2008; Ord. 862, passed 12-27-2012) Penalty, see § 114.99

§ 114.12 3.2% MALT LIQUOR LICENCE REQUIRED; FEES FOR TEMPORARY LICENSE, AND THE LIKE.

(A) *3.2% malt liquor license required*.

(1) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of 3.2% malt liquor, as part of a commercial transaction, without a license therefor from the city. This division (A) shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding 3.2% malt liquor licenses from the city. Annual on-sale 3.2% malt liquor licenses may be issued only to drug stores, restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.

(2) Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale 3.2% malt liquor license, and may sell 3.2% malt liquor on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale 3.2% malt liquor license, and may sell 3.2% malt liquor off-sale without an additional license.

(2013 Code, § 5.10)

(B) *3.2% malt liquor license fees.*

(1) *Accompany application*. Fees provided for herein shall accompany an application for license. If the application is denied the accompanying license fee shall be refunded to the applicant.

(2) *Real estate taxes*. Each such application shall also be accompanied by a receipt showing the payment of at least the first half of the current real estate taxes.

(2013 Code, § 5.11)

(C) *Temporary 3.2% malt liquor license permitted; terms and fees*.

(1) *Applicant*. A club or charitable, religious, or nonprofit organization, duly incorporated as a nonprofit or religious corporation under the laws of the state, and having its registered office and principal place of activity within the city, shall qualify for a temporary on-sale 3.2% malt liquor license.

(2) *Terms*.

(a) An application for a temporary license shall state the exact dates and place of temporary sale.

(b) All such temporary licenses shall be subject to any terms as shall be established by the Council at the time such license is granted, and any violation of such terms shall be grounds for refusing to issue such a temporary license to the violating club, charitable, religious, or nonprofit organization for a period of up to 3 years. If the license is for sales on public property, a general public liability insurance policy with limits of at least the amounts established by M.S. § 466.04, as it may be amended from time to time, shall be a condition to issuance of the license. The insurance requirement may be satisfied by filing with the city a proper certificate of such insurance along with proof of nonprofit status, if applicable.

(c) The applicant shall comply with all other restrictions, limitations, and regulations for the sale of 3.2% malt liquor under this code of ordinances and statutes.

(2013 Code, § 5.12)

(D) *3.2% malt liquor license restrictions and regulations*.

(1) *Conviction*. No license shall be issued or renewed if the applicant, prior to the date of such application, has been convicted of violating any law relating to the sale of 3.2% malt liquor or liquor; provided, that such denial is not contrary to any other provision of this code of ordinances or other law.

(2) *Citizen*. No license shall be issued to other than a citizen of the United States or a resident alien, at least 21 years of age, and who shall be of good moral character and repute.

(3) *Good order*. Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order.

(4) *Minors*. No person who has not attained the age of 18 years shall be employed to sell or serve 3.2% malt liquor in any on-sale establishment.

(5) *Hindering police*. No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant, and such police or health officer may seize all liquors found on the licensed premises.

(6) *Intoxicating liquor*. No 3.2% malt liquor licensee shall, during the effective period of such license, be the owner or holder of a federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, and the ownership or holding thereof shall be grounds for revocation, unless there has also been issued to such person a license to sell intoxicating liquor pursuant to the laws of this state and provisions of this code of ordinances at such place.

(7) *Manufacturer*. No license shall be granted to a manufacturer of 3.2% malt liquor or to anyone holding a financial interest in such manufacture.

(2013 Code, § 5.13)

(E) *3.2 malt liquor sales to obviously intoxicated persons*. It is unlawful to sell 3.2% malt liquor to a person who is obviously intoxicated, or to a habitual drunkard.

(2013 Code, § 5.16)

(Ord. 1, passed 4-1-1978; Ord. 6, passed 5-16-1978; Ord. 94, passed 7-8-1982; Ord. 124, passed 8-4-1983; Ord. 179, passed 8-13-1985; Ord. 198, passed 7-24-1986; Ord. 226, passed 8-27-1987; Ord. 256, passed 10-14-1988; Ord. 277, passed 11-21-1989; Ord. 337, passed 7-23-1992; Ord. 779, passed 7-12-2007) Penalty, see § 114.99

§ 114.13 UNLAWFUL ACTS.

It is unlawful for any:

(A) Person to knowingly induce another to make an illegal sale or purchase of 3.2% malt liquor;

(B) Licensee to sell 3.2% malt liquor on any day, or during any hour, when such sales are not permitted by state statutes;

(C) Licensee to allow consumption of 3.2% malt liquor on licensed premises on any day, or during any hour, when sales of 3.2% malt liquor are not permitted by state statutes; or

(D) Person to purchase or consume 3.2% malt liquor on licensed premises on any day, or during any hour, when sales of 3.2% malt liquor are not permitted by state statutes.

(2013 Code, § 5.14) (Ord. 1, passed 4-1-1978; Ord. 779, passed 7-12-2007) Penalty, see § 114.99

§ 114.14 LIQUOR LICENSE REQUIRED.

(A) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the city.

(B) This section shall not apply to:

(1) Such potable liquors as are intended for therapeutic purposes and not as a beverage;

(2) To industrial alcohol and its compounds not prepared or used for beverage purposes;

(3) To wine in the possession of a person duly licensed under this chapter as an on-sale wine licensee;

(4) To sales by manufacturers to wholesalers duly licensed as such by the Department of Public Safety; or

(5) To sales by wholesalers to persons holding liquor licenses from the city.

(C) The city may issue annual on-sale liquor licenses-only to the following:

(1) Hotels;

(2) Restaurants;

(3) Clubs or congressionally chartered veterans' organizations; provided, that liquor sales will be made only to members and bona fide guests;

(4) Exclusive liquor stores; and

(5) Auto racing facilities. A license for an auto racing facility may authorize sales both to persons attending events at the facility, and sales in a restaurant, bar, or banquet facility located on the premises of the auto racing facility. A license for an auto racing facility authorizes sales on all days of the week and may be issued for a space that is not compact and contiguous; provided, that the licensed premises may include only the space within a defined area as described in the application for the license.

(D) The city may issue annual off-sale or combination off-sale and on-sale liquor licenses to exclusive liquor stores. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale 3.2% malt liquor license, and may sell 3.2% malt liquor on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale 3.2% malt liquor license, and may sell 3.2% malt liquor off-sale without an additional license.

(2013 Code, § 5.30) (Ord. 198, passed 7-24-1986; Ord. 779, passed 7-12-2007; Ord. 846, passed 6-16-2011)

§ 114.15 LIQUOR LICENSE RESTRICTIONS, REGULATIONS, AND UNLAWFUL ACTS.

(A) *Limitations on issuance of licenses to 1 person or place.*

(1) No off-sale liquor license may be issued to any 1 person for more than one place in the city. Any person holding an interest in 2 or more such licenses in the city shall be deemed to hold more than 1 license.

(2) (a) For the purpose of this division (A), the term ***INTEREST***:

1. Includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail business; and

2. Does not include loans; rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or 10% or less interest in any other corporation holding a license.

(b) In determining whether an ***INTEREST*** exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this division (A) must be considered.

(B) *Licenses limited to certain areas*. No on-sale or off-sale license shall be effective beyond the compact and contiguous space named therein for which the same was granted.

(C) *Federal permits as a condition to license*. No license shall be effective until a permit shall be issued to the licensee under the laws of the United States, if such a permit be required under such laws.

(D) *Persons disqualified*.

(1) No license under this chapter may be issued to:

(a) A person under 21 years of age;

(b) A person who within 5 years of the license application has been convicted of a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages;

(c) A person who has had an alcoholic beverage license revoked within 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 5% of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; or

(d) A person not of good moral character and repute.

(2) No person holding a license from the Department of Public Safety as a manufacturer, brewer, or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the city except taproom or small brewer licensees authorized by M.S. § 340A.301, subds. 6b and 6d, as it may be amended from time to time, and §§ 114.35 and 114.36 of this chapter.

(E) *Number of licenses*. The Council may issue the number of licenses authorized by statute or restrict such number from time to time as it may, in its discretion, deem proper.

(F) *Application*. Every person desiring a license shall file with the City Clerk a written and verified application in the form prescribed by the proper agency of the state and with such information as may be required thereon. All applications for license renewal and proof of insurance required by this chapter shall be submitted to the city at least 20 days prior to the regular Council meeting in June of each year.

(G) *Conduct of business*. Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order therein, and for compliance, by the licensee and all agents and employees, with the provisions of this code of ordinances and all laws relating to the operation of the licensee's business.

(H) *Right of inspection*. No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant.

(I) *Employment of minors*. No person under 18 years of age may sell or serve liquor on licensed premises.

(J) *Unlawful acts*. It is unlawful for any:

(1) Licensee to sell, offer for sale, or keep for sale, liquor in any original package which has been refilled or partly refilled;

(2) Person to knowingly induce another to make an illegal sale or purchase of liquor;

(3) Licensee, or an employee of a licensee, to sell liquor on any day, or during any hour, when sales of liquor are not permitted by state statutes;

(4) Person to purchase liquor on licensed premises on any day, or during any hour, when sales of liquor are not permitted by state statutes; or

(5) Licensee to sell liquor on any day, or during any hour, when sales of liquor are not permitted by state statutes.

(2013 Code, § 5.32) (Ord. 1, passed 4-1-1978; Ord. 154, passed 12-27-1984; Ord. 179, passed 8-13-1985; Ord. 198, passed 7-24-1986; Ord. 237, passed 11-26-1987; Ord. 256, passed 10-14-1988; Ord. 277, passed 12-1-1989; Ord. 307, passed 3-1-1991; Ord. 337, passed 7-23-1992; Ord. 440, passed 12-5-1995; Ord. 891, passed 9-16-2014) Penalty, see § 114.99

§ 114.16 SUNDAY SALES.

The electorate of the city having heretofore authorized the same, a Sunday liquor license may be issued to hotels, restaurants, or clubs, as herein defined, which hold an on-sale intoxicating liquor license and have facilities for seating not less than 30 guests at 1 time between the hours authorized by state statutes, in connection with the sale of food. Sales authorized hereunder may begin at 10.00 a.m. on Sunday morning.

(2013 Code, § 5.34) (Ord. 239, passed 12-24-1987; Ord. 327, passed 1-16-1992; Ord. 832, passed 5-13-2010)

§ 114.17 SPORTS OR CONVENTION FACILITIES LICENSE.

(A) The Council may authorize any holder of an on-sale liquor license issued by the city or by an adjacent municipality to sell liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports or convention facility owned by the city, or instrumentality thereof having independent policy making and appropriating authority and located within the city.

(B) The licensee must be engaged to sell liquor at such an event by the person or organization permitted to use the premises, and may sell liquor only to persons attending the event. The licensee shall not sell liquor to any person attending or participating in any amateur athletic event. Such sales may be limited to designated areas of the facility. All such sales shall be subject to all laws relating thereto.

(2013 Code, § 5.35) (Ord. 124, passed 8-4-1983)

§ 114.18 TEMPORARY LIQUOR LICENSE.

(A) *Licensed authorized*. Notwithstanding any provision of this code of ordinances to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. Such license may provide that the licensee may contract with the holder of a full-year on-sale license, issued by the city, for liquor catering services. The City Council may grant a variance from the requirement that the holder be licensed by the city, upon a showing that no local licensee is able to provide the liquor.

(B) *Applicant*. The applicant for a license under this section must be a club or charitable, religious, or other nonprofit organization in existence for at least 3 years.

(C) *Terms and conditions of license*.

(1) No license is valid until approved by the Department of Public Safety.

(2) No license shall be issued for more than 4 consecutive days.

(3) All licenses and licensees are subject to all provisions of statutes and this code of ordinances relating to liquor sale and licensing, except § 114.09, and those laws and ordinances which by their nature are not applicable. Notwithstanding this exception, the licensee or caterer shall provide proof of financial responsibility coverage when a license is requested on city property and proof of the extension of such coverage to the licensed premises.

(4) Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

(2013 Code, § 5.36) (Ord. 198, passed 7-24-1986; Ord. 380, passed 7-28-1994; Ord. 779, passed 7-12-2007)

§ 114.19 ON-SALE WINE LICENSE.

(A) *License required*. It is unlawful for any person to sell, or keep or offer for sale, any wine, which shall not exceed 14% alcohol by volume, without a license therefor from the city.

(B) *Wine license restrictions*.

(1) It is unlawful to sell wine during hours, or on days, when the on-sale of liquor is not permitted by state statutes.

(2) It is unlawful for any person to consume, or any licensee to permit consumption of, any wine on licensed premises more than 30 minutes after the hour when a sale can legally be made; provided, that this shall not prevent a licensee from continuing to serve food after the legal time for making wine sales. It is also unlawful for any licensee to prohibit or prevent a police officer, by any means, from making an inspection to observe whether or not this division (B) is being complied with.

(3) It is unlawful to sell wine to persons to whom liquor sales are not permitted by the city.

(4) No wine license shall be issued to an applicant other than a restaurant, as defined in this code of ordinances or licensed bed and breakfast facility; provided, however, for purposes of this section, such restaurant shall have appropriate facilities for seating not less than 30 guests at 1 time. An on-sale wine license may be issued to a bed and breakfast facility with the approval of the State Commissioner of Public Safety. Such license authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility.

(5) It is unlawful for any licensee to make any sale of wine except for consumption on licensed premises and in conjunction with the sale of food.

(6) No person under 18 years of age may sell or serve wine on licensed premises.

(7) The holder of an on-sale wine license issued pursuant to law who is also licensed to sell 3.2% malt liquor at on-sale and whose gross receipts are at least 60% attributable to the sale of food is authorized to sell intoxicating malt liquor at on-sale without an additional license.

(2013 Code, § 5.40) (Ord. 1, passed 4-1-1978; Ord. 6, passed 5-16-1978; Ord. 64, passed 6-18-1981; Ord. 229, passed 8-27-1987; Ord. 256, passed 10-14-1988; Ord. 296, passed 10-19-1990) Penalty, see § 114.99

§ 114.20 CONSUMPTION AND DISPLAY OF LIQUOR.

(A) *License required*. It is unlawful for any public place to allow the consumption or display of liquor or the serving of any liquids for the purpose of mixing liquor without a license therefore from the city.

(B) *Term.* Notwithstanding the provisions of § 114.02, the term of such license shall run from April 1 to March 31 of the following year.

(C) *Consumption and display restrictions and regulations*.

(1) It is unlawful to consume or allow consumption or display of liquor in any private club or public place during days and hours other than those permitted for on-sale liquor by any other on-sale liquor licensee.

(2) Any private club or public place allowing the consumption or display of liquor shall be open for inspection at all times by authorized peace officers and it is unlawful to refuse to permit such peace officers to inspect such premises.

(3) Liquor sold, served, or displayed in violation of this section shall be subject to seizure for purposes of evidence.

(2013 Code, § 5.45) (Ord. 1, passed 4-1-1978; Ord. 6, passed 5-16-1978; Ord. 244, passed 6-17-1988; Ord. 332, passed 4-16-1992)

§ 114.21 CONSUMPTION AND DISPLAY OF 1-DAY LICENSE.

(A) *License required*. Any nonprofit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it, shall first obtain a license therefor from the city. It is unlawful for any such organization to fail to obtain such license.

(B) *Term.* The term of such license shall be 1 day only.

(C) *Limitation on number*. No more than 10 licenses shall be issued in any calendar year.

(D) *License fee*. The fee for such 1-day license is $25, in accordance with state statutes.

(E) *Approval*. In addition to Council approval, such license must be approved by the Commissioner of Public Safety.

(2013 Code, § 5.46) (Ord. 124, passed 8-4-1983) Penalty, see § 114.99

§ 114.22 CLUBS.

(A) *Club license required*. It is unlawful for any club to sell or keep or offer for sale any liquor without a license therefor from the city.

(B) *Club license restrictions and regulations*.

(1) No club shall sell liquor to persons other than its members and their bona fide guests.

(b) All liquor license restrictions, liquor sale regulations, and hours and days of liquor sales, as stated in this chapter or permitted by state statutes relating to the on-sale of liquor, shall be binding upon all club licenses.

(2013 Code, § 5.50) (Ord. 1, passed 4-1-1978; Ord. 6, passed 5-16-1978; Ord. 64, passed 6-18-1981) Penalty, see § 144.99

§ 114.23 NUDITY OR OBSCENITY PROHIBITED.

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

NUDITY. Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

OBSCENE PERFORMANCE. A play, motion picture, dance, show, or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

OBSCENITIES. Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct, or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

SADOMASOCHISTIC ABUSE. Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

SEXUAL CONDUCT. Human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

SEXUAL EXCITEMENT. The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(B) *Prohibition*. It is unlawful for any 3.2% malt liquor, wine, or liquor licensee to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron, or other person.

(2013 Code, § 5.70) (Ord. 1, passed 1-1-1978; Ord. 779, passed 7-12-2007) Penalty, see § 114.99

BREWER TAPROOM LICENSE

§ 114.35 BREWER TAPROOM LICENSE.

(A) *License required*. It is unlawful for the owner of any brewery to operate a taproom that offers on-sale consumption of the malt liquor produced by the brewery without a brewer taproom license issued by the city.

(B) *Brewer taproom license restrictions*.

(1) A brewer may only have 1 taproom license issued by the city, and may not have an ownership interest in a brewery licensed under M.S. § 340A.301, subd. 6, clause (d), as it may be amended from time to time.

(2) A brewer taproom license will 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 more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(3) All provisions of M.S. Ch. 340A, as it may be amended from time to time, that apply to a retail liquor license shall apply to a brewer taproom license, unless the provision is inconsistent with M.S. § 340A.301, subd. 6b, as it may be amended from time to time.

(4) It is unlawful for a brewer taproom licensee, or an employee of a licensee to sell malt liquor on any day, or during any hour, when sales of liquor are not permitted by state statutes.

(C) *Sunday sales*. A taproom licensed under this section may be open and may conduct on-sale business on Sundays.

(Ord. 891, passed 9-16-2014) Penalty, see § 114.99

§ 114.36 SMALL BREWER LICENSE.

(A) *License required*. It is unlawful for a brewer to offer for off-sale purchase, malt liquor that has been produced and packaged by the brewer at the brewery premises without a small brewer license issued by the city.

(B) *Small brewer license restrictions*.

(1) The amount of malt liquor sold at off-sale for purchase may not exceed 500 barrels annually.

(2) Malt liquor sold at off-sale shall be limited to the legal hours for off-sale at exclusive liquor stores in the city, except that a small brewer may also sell malt liquor off-sale from 8:00 a.m. until 10:00 p.m. on Sunday. The malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time.

(3) The malt liquor sold off-sale shall be packed in 64-ounce containers commonly known as "growlers" or in 750 milliliter bottles. The containers shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type enclosure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minn. Rules 7515.1100.

(4) A brewer may, but is not required to refill any growler with malt liquor for off-sale at the

request of a customer. A brewer refilling a growler must do so at its licensed premises and the growler must be filled at the tap at the time of sale. A growler refilled under this division (B)(4) must be sealed and labeled in the manner described in division (B)(3) above.

(5) A brewer may only have 1 small brewer license issued by the city.

(6) A small brewer license will 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 more than 20,000 barrels of its own brand of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(7) It is unlawful for a smaller brewer licensee, or an employee of a licensee to sell malt liquor on any day, or during any hour, when sales of liquor are not permitted by state statutes.

(Ord. 891, passed 9-16-2014; Ord. 904, passed 5-19-2015) Penalty, see § 114.99

§ 114.37 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.

(Ord. 891, passed 9-16-2014)

§ 114.99 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(2013 Code, § 5.99)

(B) (1) The purpose of this division (B) is to establish a uniform set of penalties for licensees who furnish or sell alcoholic beverages to minors. The penalties for a first or second incident shall be imposed and administered by the City Administrator upon an admission by the licensee that the licensee furnished or sold an alcoholic beverage to a minor. The penalties for a third or fourth incident may only be imposed by the City Council.

(2) The following penalties shall be imposed if a licensee furnishes or sells alcoholic beverages to a minor:

(a) A $1,000 fine and a 1-day license suspension for the first incident; provided, however, that $500 of the fine and the 1-day license suspension will be suspended for 1 year on the condition that the licensee has no further incidents of furnishing or selling alcoholic beverages to minor during that 1-year period;

(b) A $1,500 fine and a 5-day license suspension for a second incident occurring within 3 years of the date of the previous incident;

(c) A $2,000 fine and a 10-day license suspension for a third incident occurring within 3 years of the dates of the previous 2 incidents;

(d) A $2,000 fine and a suspension of the license for a minimum of 30 days or a revocation of the license for a fourth or subsequent incident occurring within 3 years of the dates of the previous incidents.

(3) All multiple-day license suspensions shall run consecutively beginning at 12:01 a.m. on the first day of the suspension period and ending at midnight on the last day of the suspension period.

(4) Any person whose license to sell alcoholic beverages is revoked under this division (B)(4) may not apply for a new license for at least 30 days after the effective date of the revocation.

(5) No suspension or revocation shall be imposed by either the City Council or the City Administrator until the licensee has been afforded an opportunity for a hearing in accordance with § 114.02(D).

(2013 Code, § 5.08)

(Ord. 1, passed 1-1-1978; Ord. 337, passed 7-23-1992; Ord. 621, passed 3-21-2002; Ord. 634, passed 7-18-2002)

CHAPTER 115: COMMERCIAL AMUSEMENTS

Section

Outdoor Performance Centers

OUTDOOR PERFORMANCE CENTERS

§ 115.30 DEFINITION.

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

OUTDOOR PERFORMANCE CENTER. Any outdoor premises in or on which shows, theatrical performances, concerts, exhibits, or events are performed or put on from a stage or similar location for viewing by more than 1,000 patrons at any 1 time and for which an admission charge is made.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.31 LICENSE REQUIRED.

No person shall construct, operate, or maintain an outdoor performance center within the city without first having obtained a license as hereinafter provided from the city.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992) Penalty, see § 115.99

§ 115.32 APPLICATION PROCEDURE.

(A) Applications for licenses issued hereunder shall be made in writing and in duplicate and shall state:

(1) Number of automobiles or other vehicles which the facility is designed to accommodate;

(2) The number of persons the facility is designed to accommodate;

(3) The hours of operation of the facility; and

(4) The number of employees and attendants to be employed.

(B) The application hereunder shall be accompanied by a plat or drawing of the facility which plat or drawing shall show the following:

(1) Location, size, and capacity;

(2) Locations and size of entrances and exits;

(3) Parking plan and type of ground surfacing;

(4) Location, size, and construction of all proposed structures;

(5) Locations, size, and design of all signs, marquees, and billboards;

(6) Location, size, and construction of all walls, fences, and barriers surrounding the premises;

(7) Location and description of all artificial lighting to be used on the premises;

(8) Locations and description of all drives connected to public highways;

(9) Plan of traffic control and number and description of persons used in controlling traffic, all of which must receive the written approval of the city's Chief of Police; and

(10) Certificate of approval in writing from the Fire Chief of the city as to fire lanes and other public safeguards.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.33 APPLICATION FEE.

An application hereunder shall be accompanied by an application fee in an amount set by Council resolution and no part of which is refundable.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.34 INSURANCE REQUIREMENTS.

(A) Every application for a license hereunder shall be accompanied by a bond, approved as to form by the City Attorney and then approved by the City Council, executed by a bonding or surety company authorized to do business in the state in the penal sum and amount of $3,000,000 conditioned upon the payment by the licensee of any and all final judgments for injuries or damages resulting to persons or property arising out of the operation or maintenance of the facility.

(B) Such bond shall run to the city for the benefit of any person who may have received injuries and for the benefit of any person who may claim redress for property damages resulting from the operation or maintenance of such facility. Such bond shall remain in full force and effect for the full period of the time for which this license is effective. A liability insurance policy issued by an insurance company authorized to do business in the state conforming to the requirements of this chapter may be permitted in lieu of the bond, but before becoming effective, must be approved.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.35 PERFORMANCE SURETY.

(A) In addition to the provisions of § 115.34, every application for a license hereunder shall be accompanied by proof of an escrow deposit in form acceptable to the City Attorney and then approved by the City Council in an amount of $50,000 or shall be accompanied by a letter of credit so conditioned in the same manner as the escrow and the escrow deposit or letter of credit must be at a bank acceptable to the city.

(B) The conditions of the obligation of the escrow deposit or letter of credit shall be such that if the licensee shall comply with the terms of the license or any modification, extension, or renewal thereof and all pertinent laws of the state or the city and that if the licensee shall further pay when due all taxes, licenses, penalties, and other charges provided by law and it shall further provide that in the event of any violation of the provisions of the license or relevant law, that all or a portion of such escrow or letter of credit, to be determined after a hearing by the City Council, shall be forfeited to the city and that if the licensee shall pay to the extent of the principal amount of the escrow or letter of credit any amount so due thereunder or resulting from the violation of any of the provisions of the ordinance or law of the state or the city then the obligation of the escrow or letter of credit shall be void otherwise shall remain in full force and effect.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.36 SPECIAL CONDITIONS.

(A) Prior to the granting of any license, the licensee must supply the city with a list and a description of its upcoming bookings and,

if the bookings come in after the application, this information must be supplied to the Council 60 days prior to the date of the engagement.

(B) In an emergency situation, but not more than once in any calendar year, the time of such notice could be cut to 20 days and in no event less that 7 days before the event.

(C) The city may withhold a license for any applicant who in the past has violated any provision of this subchapter or other relevant ordinances or pertinent laws of the city and the state.

(D) Performance standards as to noise emitting from and on the facility must be measured according to PCA standards of sound level and the measurement must prove conformance at the property line of the facility and at the property line of the nearest residence or residences, and under no circumstances, may the sound level exceed the PCA standards as they are set from time to time.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.37 PROHIBITED CONDUCT ON THE PREMISES.

(A) The licensee shall not knowingly allow the continuation of the following prohibited activities and if such activities are discovered by licensee, the licensee shall take whatever action is reasonably needed to terminate the following: brawling or fighting; or conduct tending to reasonably arouse, alarm, anger or resentment in others.

(B) There shall be no intentional throwing of any object, thing, or article onto the stage, playing field, or area where an event is conducted, which may be likely to endanger any person or property or interfere with the orderly play or conduct of the event.

(C) There shall be no intentional running or going onto the stage, playing field, or area where an event is conducted.

(D) There shall be no obstruction of any aisle properly marked "exit" or taking or obstructing the seat of another.

(E) There shall be no possession with intent to consume, serve, or dispense any intoxicating liquor or non-intoxicating malt liquor on the premises, except in areas clearly designated for such purposes.

(F) No person shall be permitted to appear or be at any event in an intoxicated or drug induced condition.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992) Penalty, see § 115.99

§ 115.38 LICENSES.

Whenever the City Council has authorized the issuance of a license under the provisions of this chapter, such license shall be issued upon the payment by the applicant to the city of a fee to be set by resolution.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.39 EXPIRATION OF LICENSES.

All licenses issued under this subchapter, shall expire on November 1 next following the issuance thereof. No license issued hereunder shall be transferrable.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.40 REVOCATION OR SUSPENSION.

The City Council shall have authority to revoke or suspend a license issued hereunder when it finds that the premises are used as campground, place of residence, or other similar occupancy before, during, or after the usual closing hours of any entertainment on the facility.

(2013 Code, § 6.42B) (Ord. 230, passed 10-22-1987; Ord. 337, passed 7-23-1992)

§ 115.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(A) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor.

(B) *Petty misdemeanor*. As to any violations not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 6.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 352, passed 1-7-1993)

CHAPTER 116: MASSAGE PARLORS

Section

§ 116.01 PURPOSE.

(A) The city recognizes and accepts therapeutic massage, as distinguished from other forms of massage, as a scientific health care, maintenance technique, and procedure for the human muscles, tendons, tissues, and the like. The city, however, equally recognizes the potential for illicit massage operations or establishments in the wake of legitimate professional therapeutic massage establishments.

(B) Accordingly, in order to prevent or protect against the existence of illicit massage establishments or operations in the city and to protect the public's health, safety, and welfare, including the protection of the city's legitimate massage therapists' profession and reputation, the city deems it necessary to regulate therapeutic massage establishments and massage therapists through the licensing process.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012)

§ 116.02 DEFINITIONS.

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

ACCREDITED INSTITUTION. An educational institution holding accredited status from the North Central Association of Colleges and Schools ("NCA") or another regional accrediting agency approved by the U.S. Department of Education presently or at the time the applicant obtained his or her diploma or certificate of graduation.

ACCREDITED PROGRAM. A professional massage program that is presently, or at the time the applicant obtained his or her

diploma or certificate of graduation, accredited by the Commission on Massage Therapy Accreditation ("COMTA"), or a comparable national or regional organization which is approved by the U.S. Department of Education for its accrediting program for compliance with quality and competency standards through a process of periodic review and self-study.

MASSAGE THERAPIST. A person who practices or provides therapeutic massage to another for a fee or other consideration paid either directly or indirectly. A person licensed as a medical doctor, chiropractor, osteopath, podiatrist, licensed nurse, physical therapist, athletic director or trainer, or beautician (cosmetologist) or barber who confines his or her treatment to the scalp, face, and neck or the lower leg and feet in the case of a pedicure shall not be deemed to be a ***MASSAGE THERAPIST***.

MASSAGE THERAPY or ***THERAPEUTIC MASSAGE.*** Scientific health care or health maintenance techniques or procedures carried out by a massage therapist involving the rubbing, tapping, pounding, or kneading of a person's skin, muscles, and tissues or the stretching of body limbs (e.g., Thai massage) for the purpose of easing mental and physical tension, the breaking up of fatty tissues, relaxing muscles or alleviating muscle spasms, and the improvement of circulation through the body.

MASSAGE THERAPY BUSINESS.

(1) Any enterprise, establishment, or operation, whether under control of an individual or legal entity, providing or offering to provide massage therapy services within the city for a fee or other consideration paid either directly or indirectly, that:

(a) Has 1 or more massage therapists employed or contracted to provide massage therapy services for the massage therapy business; or

(b) Is located in a fixed location in a nonresidential zoning district within the city wherein massage therapy services are provided.

(2) Any health or medical facility, office, or clinic operated by state licensed medical professional(s) or any health or medical-related business operated by state licensed medical professional(s) duly licensed under the provisions of M.S. §§ 144.50 through 144.60, as they may be amended from time to time, which provides therapeutic massage to its patients, shall not be deemed to be a massage therapy business.

STUDENT OF MASSAGE THERAPY. A person who is enrolled in and attends classes at an accredited institution or accredited program as defined by this chapter. This includes students attending a post-graduate continuing education class, provided the class has been approved by the National Certification Board for Therapeutic Massage and Bodywork or other nationally recognized organization.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012)

§ 116.03 LICENSE REQUIRED.

(A) *Massage therapist licence required*. It shall be unlawful for any person to practice massage therapy or provide or offer to provide massage therapy within the city without a massage therapist license issued by the city. This includes persons providing massage therapy at massage therapy businesses that have massage therapy business licenses.

(B) *Massage therapy business license required*. It shall be unlawful for any person or entity to operate a massage therapy business within the city without a massage therapy business license issued by the city.

(C) *Exceptions*. This chapter shall not apply to and no massage therapist or massage therapy business license shall be required for:

(1) A health care office, clinic, or facility:

(a) Owned by a municipal corporation organized under the laws of the state;

(b) Owned by the state or any of its agencies; or

(c) Licensed by the state.

(2) Any business or entity owned and operated by state licensed medical professional(s) through whom massage therapy or therapeutic massage is provided to its patients as a secondary health care treatment provided by the business or entity.

(3) Accredited institutions which provide an accredited program of study or course work in massage therapy or therapeutic massage; provided, that:

(a) The massage therapy or therapeutic massage is provided during and as part of a course or clinical component of the institution's program or course work; and

(b) Students are supervised by an instructor while performing massage therapy or therapeutic massage.

(4) A massage therapist who is working for or an employee of a medical professional licensed under M.S. Chs. 147 or 148, as they may be amended from time to time, or is an employee of a health care office, clinic, or facility that is:

(a) Owned by a municipal corporation organized under the laws of the state;

(b) Owned by the state or any of its agencies; or

(c) Licensed by the state.

(5) Students of massage therapy; provided, that:

(a) The massage is provided during and as part of an accredited program of study or course work in massage therapy; and

(b) The student is supervised by an instructor while providing or performing massage therapy services. A notice, which advises the public that the person who may provide massage therapy services is a student of massage therapy and is not licensed by the city, shall be posted in a conspicuous location in the room in which the massage therapy is provided.

(D) *Massage therapy business license period and renewal*. A massage therapy business license issued under this chapter shall be an annual license, expiring on November 1 of each year. A massage therapy business license may be annually renewed, provided the licensee completes and files a license renewal application with the city no later than October 15 of the year in which the license is to be renewed. The licensee must provide the city with any changes in ownership interest throughout the duration of the license period. If ownership interests have changed, an additional investigation may be necessary and an additional investigation fee may be required to be paid.

(E) *Massage therapist license*. All massage therapists practicing in the city must be licensed and must apply to the city for a massage therapist license. A massage therapist license does not expire and is not required to be renewed.

(F) *License and investigation fees*. The license and investigation fees for licenses required by this chapter shall be determined by the City Council in the city's fee schedule. If a license application is received in the middle of a license term, the license fee shall be pro-rated for the remaining term of the license. All required license fees shall be paid on a pro-rated quarterly basis.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012) Penalty, see § 116.99

§ 116.04 LICENSE APPLICATIONS.

(A) *Massage therapy business license*.

(1) An application for a massage therapy business license shall be filed, along with all required fees and information, including a background investigation fee with the City Clerk. The amount of the background investigation fee shall be equivalent to the city's cost of the background investigation of the massage therapy business and all persons or entities that have a 5% financial interest in the business. The Police Department shall conduct a background investigation on the applicant. An inspection of the business premises by the Building Inspector is also required. After the background investigation and building inspection are complete, all applications shall be considered by the City Clerk and granted or denied by the City Council.

(2) The application for a license under this chapter shall be made on a form supplied by the city and shall contain the following information:

(a) For all applicants:

1. Whether the applicant is an individual, corporation, partnership, or other form of organization;

2. Specify the full name, address, date, and place of birth, and telephone number of the natural person designated by the applicant as the massage therapy business's on-site manager or agent along with the notarized written consent of the person to:

a. Take full responsibility for the conduct of the licensed premises and operation; and

b. Serve as the business's agent for purposes of services of notices and other processes related to the license by the city.

3. Evidence that the massage therapy business's on-site manager or agent has legal work status in the United States;

4. A list of the massage therapy business's employees along with proof that all of the employees who are massage therapists are licensed by the city;

5. The legal description and address of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities;

6. If the applicant does not own the premises, a copy of the lease agreement allowing the applicant to occupy the premises;

7. The floor number, street number, and rooms where the massage services are to be conducted;

8. Whether all taxes and special assessments that are due and payable for the premises to be licensed have been paid, and if not, the years and amounts that are unpaid;

9. If the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by preliminary plans showing the design of the proposed premises; if the plans for design are on file with the Building Inspector, no plans need be submitted;

10. The name and street address of the business if it is to be conducted under a designation or name other than the name of the applicant, and a certified copy of the certificate required by M.S. §§ 333.01 and 333.02, as they may be amended from time to time;

11. Proof of general liability insurance coverage in effect as required by this chapter;

12. With respect to the owner, operator, or any person who has a 5% financial interest in the business and the appointed on-site manager or agent of the applicant, proof of workers' compensation insurance as required by state law;

13. If the owner, operator, or any person who has a 5% financial interest in the business and the appointed on-site manager or agent of the applicant has ever had a massage therapist or massage therapy business-related license in the city or another jurisdiction that was suspended or revoked within the past 10 years;

14. a. Proof of identification consisting of 1 of the following:

i. A valid driver's license or identification card issued by a state of the United States or a province of Canada that includes the photograph and date of birth of the applicant;

ii. A valid military identification card issued by the U.S. Department of Defense; or

iii. A valid passport issued by the United States or another country if the applicant is a foreign national.

b. For purposes of satisfying this requirement, the applicant is deemed to be the on-site manager or agent for the massage therapy business that is signing the application on behalf of the business.

15. Other information that the city may require.

(b) For applicants who are individuals:

1. The full name, address, date, and place of birth, and telephone number of the applicant;

2. If the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or means and information concerning the dates and places where used;

3. Residence addresses of the applicant during 5 years preceding the date of application;

4. The type, name, and location of every business or occupation the applicant has been engaged in during the preceding 5 years;

5. Names and addresses of the applicant's employers for the preceding 5 years;

6. If the applicant has ever been convicted of a crime other than a minor traffic offense; if so, the applicant must furnish information as to the time, place, and offense involved in the conviction; and

7. If the applicant has ever been engaged in the operation of massage services; if so, the applicant must furnish information as to the name, place, and length of time of involvement in such activity.

(c) 1. For applicants that are partnerships:

a. The names and addresses of all general and limited partners and the information concerning each general partner described above in division (A)(2)(b) above;

b. The managing partners must be designated, and the interest of each general and limited partner in the business must be disclosed; and

c. A true copy of the partnership agreement must be submitted with the application, and if the partnership is required to file a certificate as to a trade name under M.S. § 333.02, as it may be amended from time to time, a certified copy of that certificate must be submitted.

2. The license if issued will be in the name of the partnership.

(d) 1. For applicants that are corporations:

a. The name of the corporation or business, and if incorporated, the state of incorporation;

b. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in M.S. § 303.06, as it may be amended from time to time;

c. The names of any general managers, corporate officers, proprietors, and other persons in charge of the premises to be licensed, and the information about those persons described in division (A)(2)(b) above; and

d. A list of the persons who own or have a 5% or greater interest in the corporation or who are officers of the corporation or organization, together with their addresses and the information regarding such persons described in division (A)(2)(b) above.

2. The license if issued will be in the name of the corporation.

(B) *Massage therapist license applications.*

(1) An application for a massage therapist license shall be filed, along with all required fees, with the City Clerk. The Police Department shall conduct a background investigation on the applicant. After the background investigation is complete, all applications shall be considered by the City Clerk and granted or denied by the City Council.

(2) The application for a license under this chapter shall be made on a form supplied by the city and shall contain the following information:

(a) The applicant's full name, address, date and place of birth, and telephone number;

(b) The name, address, and telephone number of the applicant's current employer;

(c) The applicant's employers for the previous 10 years, including the employer's name, address, and dates of employment;

(d) The applicant's residence address for the previous 10 years;

(e) The applicant's weight, height, color of eyes, and color of hair;

(f) If the applicant has ever been convicted of a crime other than a minor traffic offense and, if so, the time, place, and offense involved in the conviction;

(g) If the applicant has ever had a massage therapist or massage therapy business-related license in the city or another jurisdiction that was suspended or revoked within the past 10 years;

(h) If the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used;

(i) Evidence that the applicant has legal work status in the United States;

(j) Evidence that the applicant has or will have general liability insurance coverage meeting the requirements of this chapter in effect at the time of issuance of the license;

(k) Evidence that the applicant has 1 of the following:

1. Has a diploma or certificate of graduation from an accredited institution for a comprehensive massage therapy program that includes subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice;

2. Has completed at least 500 credit hours of certified therapeutic massage training/course work that includes subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited institution or program; or

3. Has passed either:

a. The National Certification Exam offered by the National Certification Board for Therapeutic Massage and Bodywork; or

b. The Massage and Bodywork Licensing Examination offered through the Federation of State Massage Therapy Boards and has a minimum of 7 years of full-time work experience as a massage therapist in the United States.

(l) Proof of identification consisting of 1 of the following:

1. A valid driver's license or identification card issued by a state of the United States or a province of Canada that includes the photograph and date of birth of the applicant;

2. A valid military identification card issued by the U.S. Department of Defense; or

3. A valid passport issued by the United States or another country if the applicant is a foreign national.

(m) Other information that the city requires.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012)

§ 116.05 LICENSEE ELIGIBILITY.

(A) The City Council may deny issuance of a massage therapy business license in any of the following circumstances:

(1) The proposed premises in which the massage therapy business proposes to operate is located in a residential zoning district or is located in a commercial or industrial zoning district in which medical or health care facilities or uses are not permitted or conditional uses;

(2) The owner, operator, any person who has a 5% financial interest in the business or the appointed on-site manager or agent has a conviction for, or was charged with, but convicted of a lesser charge of, a crime involving a violation of any massage therapy-related regulation in any other jurisdiction, any prostitution-related offense, criminal sexual conduct, indecent exposure, surreptitious intrusion, disorderly house as defined by state statutes, theft, felony drug offense, any crime of violence as defined by state statutes, or any other similar crime or offense which conviction date is within 10 years of the date of application;

(3) The owner, operator, any person who has a 5% financial interest in the proposed licensed massage therapy business or the on-site manager or agent had a massage therapist or massage therapy business-related license in another jurisdiction that was either suspended or revoked within 10 years preceding the date of application;

(4) The information provided in the application does not meet the requirements of this chapter;

(5) The applicant provided false or misrepresented information in the application;

(6) The business is proposed to be operated on premises on which property taxes, assessments, or other financial claims by the state, county, or city are due, delinquent, or unpaid, provided the applicant or other entity in which the applicant has an interest has the legal duty to pay said taxes, assessments, or claims due and owing;

(7) The applicant does not have insurance coverage in effect as required by this chapter; or

(8) The applicant has been denied a license under this chapter within the preceding 12 months.

(B) The City Council may deny issuance of a massage therapist license in any of the following circumstances:

(1) The applicant has a conviction for or was charged with, but convicted of a lesser charge, a crime involving a violation of any massage therapy-related regulation in any other jurisdiction, any prostitution-related offense, criminal sexual conduct, indecent exposure, surreptitious intrusion, disorderly house as defined by state statutes, theft, felony drug offense, any crime of violence as defined by state statutes, or any other similar crime or offense within 10 years of the date of application;

(2) The applicant had a massage therapist or massage therapy business-related license in another jurisdiction that was suspended or revoked within 10 years preceding the date of application;

(3) The applicant is not 18 years of age or older;

(4) The information provided in the application does not meet the requirements of this chapter;

(5) The applicant provided false or misrepresented information on the application;

(6) The applicant does not have insurance coverage in effect as required by this chapter; or

(7) The applicant has been denied a license under this chapter within the preceding 12 months.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012)

§ 116.06 RESTRICTIONS AND REGULATIONS.

All massage therapy business licensees and massage therapist licensees must comply with the following restrictions and regulations.

(A) A massage therapy business must not provide massage therapy services at any location other than the premises identified on the license, except a licensed massage therapist employed or contracted by the massage therapy business licensee may provide massage therapy services in the following circumstances:

(1) To a client at the client's residence or place of care if in a long- or short-term care facility, such as a hospital, nursing home, or convalescence facility;

(2) In connection with a special event or function whereby the massage therapist provides massage services to attendees of the event or function; or

(3) At the location of any business in the city that contracts with a licensed massage therapy business to perform massage therapist services at the site of the contracting business.

(B) The act of any employee of a massage therapy business licensee is deemed to be the act of the licensee. The licensee shall be responsible for all acts and conduct attributable to and in connection with massage therapy services provided by the licensee or occurring on the premises of the business.

(C) The person who is receiving a massage shall at all times have his or her anus, intergluteal cleft (buttocks crease), and genitals covered with clothing or properly draped with non-transparent material. The person who is receiving massage therapy of the breast or buttocks (gluteus) shall have the breast or buttock (gluteus muscle) that is not then immediately receiving massage therapy properly covered and draped with non-transparent material.

(D) The massage therapist and all others working on the premises shall at all times be fully clothed and shall not expose his or her breasts, buttocks, anus, or genitals.

(E) At no time shall the massage therapist touch or offer to touch or massage the penis, scrotum, mons veneris, vulva, or vaginal area of any customer or person inquiring of massage therapy services.

(F) No beer, liquor, narcotic drug, or controlled substances, as such terms are defined by state statutes or this code of ordinances, shall be used, ingested or present during any massage therapy session.

(G) No doors of massage rooms, when occupied by 1 or more persons, shall be locked. All locks, if any, shall be keyed only from the exterior of the massage rooms.

(H) Only massage therapists who are licensed by the city shall practice or provide massage therapy services for or within a licensed massage therapy business.

(I) The licensee shall comply with any and all provisions of this chapter, all provisions of this code of ordinances, federal, and state laws and regulations.

(J) No massage therapy services shall be provided and the massage therapy business shall not be open between the hours of 10:00 p.m. and 6:00 a.m. of any day.

(K) The licensed premises of a massage therapy business shall, during all operating hours, be open to inspection by any city building, zoning, code, or police officer to determine whether this chapter and all other laws are being observed. All persons, as a condition to being issued the license, consent to these inspections. It is unlawful for any licensee, agent, or employee of a licensee to hinder or prevent the city inspecting officer from making an inspection.

(L) If a licensed massage therapy business's on-site manager or agent ceases to be located at the licensed premises or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

(M) A massage therapist shall have the license issued by the city in his or her possession while providing massage services within the city. A massage therapy business shall conspicuously post the license issued by the city on its premises in a conspicuous location that is accessible to the public.

(N) No license issued under this chapter may be transferred. Massage therapy business licenses shall terminate upon any change in officers or ownership interests of the licensee, unless the change is approved by the City Council in which case the license shall only continue in force until the end of the license term.

(O) The licensee shall have in effect during the license period general liability insurance providing minimum coverage of $300,000 combined single limit per occurrence. Employees of licensed massage therapy businesses are not required to carry individual general liability insurance; provided, that proof of required insurance coverage has been provided by the business to the city.

(P) The licensee shall comply with all laws of health and sanitation.

(Q) No massage therapy business shall be used or operated as or in conjunction with an adult establishment as defined in § 130.68.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012; Ord. 895, passed 10-7-2014) Penalty, see § 116.99

§ 116.07 REVOCATION.

Violation of any provision of this chapter, or any building, safety, or health regulation shall be grounds for suspension or revocation of a license, as determined by the City Council. Before revocation or suspension of any license, the city shall give notice to the licensee and grant the licensee the opportunity to be heard.

(2013 Code, § 6.45) (Ord. 860, passed 9-13-2012) Penalty, see § 116.99

§ 116.99 PENALTY.

Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(A) *Misdemeanor*. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor.

(B) *Petty misdemeanor*. As to any violations not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 6.99) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 352, passed 1-7-1993)

TITLE XIII: GENERAL OFFENSES

Chapter

CHAPTER 130: PUBLIC PROTECTION, CRIMES, AND OFFENSES

Section

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PUBLIC PROTECTION

§ 130.01 UNLAWFUL USE AND FURNISHING OF TOBACCO.

(A) *Minor using*. It is unlawful for any person, under the age of 18 years, to use tobacco in any form.

(B) *Furnishing to minors*. It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of 18 years.

(2013 Code, § 10.02) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

Cross-reference:

Tobacco, Tobacco Products, and Tobacco-Related Devices, see §§ 110.055 through 110.067

§ 130.02 TOILET INSTALLATION REQUIRED.

(A) It is the duty of every owner or occupant of any property within the city, having a dwelling house or business building situated thereon, which property is within 500 feet of any municipal water and sewer mains, to install a toilet in such dwelling or business building and make connection thereof with such water and sewer mains.

(B) Whenever the noncompliance of the owner or occupant of such property is reported to the Building Official, the Building Official shall forthwith make such investigation as the Building Official deems necessary or proper and report the findings to the Council. If the Building Official finds and reports that in Building Official's opinion the lack of toilet facilities is an unhealthful or insanitary condition, the city shall forthwith serve written notice upon said owner or occupant requiring the installation of toilet facilities upon premises described in said notice, and connection thereof with the sewer and water mains, all of which shall be done within 30 days after service of such written notice.

(C) Whenever any owner or occupant shall default in compliance with such written notice, the Council may by resolution direct that a toilet be installed and connection made with the water and sewer mains and that the actual cost of such installation be paid in the first instance out of the General Revenue Fund, and assessed against the property so benefitted. After such installation and connection is completed by order of the Council, the city shall serve a written notice of intention to make an assessment therefor. If such assessment is not paid within 10 days, the city shall certify the amount thereof to the County Auditor in the same manner as with other special assessments; provided, that the Council may by resolution provide that the assessment be spread over a term of 3 years upon written request by the owner of the property.

(2013 Code, § 10.03) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 130.99

§ 130.03 DOG, CAT, AND DOMESTIC ANIMAL REGULATION AND LICENSING.

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

AT LARGE. Outside of the premises of the owner and not under restraint.

DANGEROUS DOG. Any dog that has:

(a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

(b) Killed a domestic animal without provocation while off the owner's property; or

(c) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

GREAT BODILY HARM. The meaning given it under M.S. § 609.02, subd. 8, as it may be amended from time to time.

OWNER. Any person as defined in § 10.05 possessing, harboring, keeping, having care, or custody or control of a dog or cat, or the parents or guardians of a person under 18 years of age who possesses, harbors, keeps, or has the care or custody or control of a dog or cat.

POTENTIALLY DANGEROUS DOG. Any dog that:

(a) When unprovoked, inflicts bites on a human or domestic animal on public or private property;

(b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A ***PROPER ENCLOSURE*** does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

SUBSTANTIAL BODILY HARM. The meaning given it under M.S. § 609.02, subd. 7a, as it may be amended from time to time.

UNDER RESTRAINT. On the premises of the owner, or on a leash and under a responsible persons control and obedience. The leash shall be a restraint or a line, belt, cord, or chain, not more than 10 feet in length for leading or restraining a dog, securely fastened around the neck or collar of said dog. In the case of a potentially dangerous or dangerous dog, the leash shall be no longer than 4 feet in length.

(B) *Running at large prohibited* . It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large, except as otherwise allowed at the city's dog park.

(C) *License required*. It is unlawful for any person, or other possessor, of a dog over 6 months of age, to fail to obtain a proper city license therefor. It shall be the duty of each owner of a dog to obtain a license immediately, if not licensed already, or upon acquiring ownership of any unlicensed dog, or within 30 days of establishing residence in the city, or upon expiration of an existing license. The owner of any dog picked up by the Pound Master whose license is not current, shall be subject to a fine as established by the Council by resolution. This fine must be paid prior to releasing the dog,

(D) *Application*. Application for a dog license shall be on a form supplied by the city.

(E) *License fee and term.* All fees for the licensing and impounding of dogs and cats shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

(F) *Tag required*. All licensed dogs shall wear a collar and have a tag firmly affixed thereto evidencing such license and vaccination. A duplicate for a lost tag may be issued by the city upon payment of the fee as determined by the Council, adopted by resolution, for issuance of the duplicate.

(G) *Inoculation against rabies*. All dogs shall be inoculated against rabies by a veterinarian duly licensed to practice veterinary medicine in the state. It is the duty of the owner of the animal to keep inoculations current. The owner of any dog picked up by the Pound Master whose rabies inoculation is not current, shall be subject to a fine as established by the Council by resolution. The fine

must be paid prior to the release of the dog. Upon payment of the fine and release of the dog, the owner shall have 15 days in which to have the dog inoculated. If the dog is picked up after this 15-day period and the owner cannot provide proof of inoculation against rabies, the owner shall be subject to another fine.

(H) *Records*. The city shall keep a record of all dog licenses issued, with the name and address and phone number of the person to whom issued, and name, age, and description of the dog.

(I) *Obligation to prevent nuisances*.

(1) It is unlawful for the owner of any dog or cat to permit, by action or inaction, such dog or cat to commit a nuisance.

(2) Each occurrence of any of the following acts shall be considered a separate nuisance:

(a) For any dog or cat to habitually or frequently bark or cry;

(b) For any dog or cat to frequent school grounds, playgrounds, playing fields, parks, or public beaches;

(c) For any dog or cat to chase vehicles or individuals;

(d) For any dog or cat to molest or annoy any person, if such person is not on the property of the owner;

(e) For any dog or cat to damage, molest, defile, or destroy any property, public or private;

(f) For any owner of any dog or cat not to immediately remove any feces left by such animal on any public or private property including yards and boulevards and to dispose of such feces in a sanitary manner;

(g) For any owner not to have in such owners possession a device or equipment for picking up and removal of such animal feces. The provisions of this division (I)(2)(g) shall not apply to a paved or traveled portion of a public street or road or to rural undeveloped areas of the city, nor to guide dogs accompanying a blind person or to a dog used by police or in rescue operations; and

(h) For any owner to keep a dog with a propensity, tendency, or disposition to attack, cause injury, or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing, snapping, barking, or howling; which attacks a human being or other domestic animal without provocation; or which is owned or harbored primarily or in part for the purpose of dog fighting. It shall not be a violation of this division (I)(2)(h) if the dog is inside a building, kennel, or pen; or outside on a 4-foot leash and muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals, except when shown in a sanctioned American Kennel Show.

(J) *City Pound*. A City Pound is established which shall be at such location, either within or without the city, as the Council, by resolution, shall designate. A Pound Master shall be appointed by the Council who shall attend to the maintenance of such Pound and who shall file a monthly report with the Council relating to the operation of such Pound.

(K) *Impounding*. Any dog found in the city without a tag or running at large shall be placed in the City Pound. Any dog or cat committing a nuisance as provided in division (I) above shall be seized and may be impounded. All dogs and cats placed in the City Pound shall be held for redemption by the owner for a period of not less than 5 regular business days. A ***REGULAR BUSINESS DAY*** is one during which the Pound is open for business to the public for at least 4 hours between 8:00 a.m. and 7:00 p.m. Impoundment records shall be preserved for a minimum of 6 months and shall show:

(1) The description of the animal by specie, breed, sex, approximate age, and other distinguishing traits;

(2) The location at which the animal was seized;

(3) The date of seizure;

(4) The name and address of the person from whom any animal 3 months of age or over was received; and

(5) The name and address of the person to whom any animal 3 months of age or over was transferred. Any dog or cat which is not claimed within 5 days after impounding may be sold, for not less than the amount provided in division (M) below, to anyone desiring to purchase the dog or cat. If unclaimed, such dog or cat shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of state law; provided, however, that if a tag affixed to the animal, or a statement by the animals owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the 5-day period.

(L) *Notice of impounding*. Upon the impounding of any dog or cat the owner shall be notified, or if the owner of the dog or cat is unknown, written notice shall be posted for 5 days at the City Hall describing the dog or cat and the place and time of taking.

(M) *Release from City Pound*. Dogs and cats shall be released to their owners or persons previously in possession or them, upon a sworn statement of ownership, proof that a license has been duly issued for an impounded animal, proof that the rabies inoculation is current, and payment of impounding fees as established by the Council by resolution. In the case of an unlicensed dog the owner shall purchase a license from the Pound Master.

(N) *Permissible return of unrestrained dogs*. Notwithstanding any other provision of this section to the contrary, if a licensed dog is found "at large" and its owner can be identified and located, such dog need not be impounded but may, instead, be taken to the owner. In order to release the dog to the owner; however, the owner shall pay the impoundment fees as specified in division (M) above.

(O) *Enforcement*. It is unlawful for any person to interfere with, hinder or molest the Pound Master in the exercise of their duties.

(P) *Right of entry*. The Pound Master or police officer shall have the right to enter upon any premises at all reasonable times for the purpose of discharging the duties imposed upon them by this section where there is a reasonable belief that a violation has been committed.

(Q) *Quarantine*. Any animal which bites a person shall be quarantined for 10 days.

(R) *State statutes adopted by reference*. The provisions of M.S. §§ 35.67, 35.68, and 35.69, as they may be amended from time to time, are hereby adopted and incorporated herein by reference as though set forth fully herein.

(S) *Dangerous dogs*.

(1) It is unlawful for any person to possess, own, or keep a potentially dangerous dog or dangerous dog within the city limits, except as provided in this section. The provisions of this section do not apply to dogs used by law enforcement officials for police work.

(2) The city may designate any dog as a potentially dangerous dog or a dangerous dog upon determining that the dog meets the applicable definitional criteria as stated in division (A) above. The city shall cause the owner of the dog to be notified in writing that such dog is designated as potentially dangerous, or dangerous.

(3) If the city designates a dog as a potentially dangerous dog or a dangerous dog, the owner shall maintain posting on the owner's property warning that there is a dangerous dog on the premises. The posting shall be in a conspicuous location in plain sight on the property and be in a form authorized by the city.

(4) No person may own a potentially dangerous dog or a dangerous dog unless the dog is registered and has microchip identification as provided in M.S. §§ 347.51, 347.515, and 347.52, as they may be amended from time to time.

(5) Any potentially dangerous dog, or dangerous dog must be kept in a proper enclosure while on the owner' property. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash not longer than 4 feet in length and be under the physical restraint of a responsible person.

(T) *Compliance with Dog Park regulations*. It us unlawful for any person to violate any of the city's rules regulating the city's Dog Park.

(2013 Code, § 10.21) (Ord. 1, passed 4-1-1978; Ord. 91, passed 4-15-1982; Ord. 128, passed 8-4-1983; Ord. 298, passed 10-26-1990; Ord. 337, passed 7-23-1992; Ord. 660, passed 4-10-2003; Ord. 719, passed 2-10-2005; Ord. 894, passed 10-7-2014) Penalty, see § 130.99

§ 130.04 OTHER ANIMALS.

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

DOMESTIC ANIMAL. Any of the following animals:

(a) Domestic dogs, excluding hybrids with wolves, coyotes, or jackals;

(b) Domestic cats, excluding hybrids with ocelots or margays;

(c) Farm animals;

(d) The following other mammals: chinchillas; pot bellied pigs; and pygmy goats;

(e) The following rodents: rabbits; guinea pigs; hamsters; gerbils; mice; and rats;

(f) The following reptiles: iguanas; anoles; chameleons; non-venomous snakes; terrapins; turtles; and tortoises;

(g) The following amphibians: frogs; toads; and newts;

(h) The following birds: captive-bred species of common cage birds, including parakeets; finches; love birds; doves; parrots; cockatiels; cockatoos;

(i) Non-poisonous spiders;

(j) Hermit crabs; and

(j) Fish.

WILD ANIMAL. Any animal other than a domestic animal.

(B) *Keeping*. It is unlawful for any person to keep any wild animal in any part of the city. It is unlawful for any person to keep any animal which is not approved by the U.S. Department of Agriculture, or the State Department of Natural Resources, in any part of the city. Except as otherwise allowed in division (H) below, farm animals, pot bellied pigs, and pygmy goats may be kept only in that portion of the city zoned for agricultural purposes or where these animals are a permitted, conditional, or accessory use.

(C) *Housing*. It is unlawful for any person to keep any domestic or wild animal in any structure infested by rodents, vermin, flies, or insects.

(D) *Treatment*. It is unlawful for any person to treat any domestic or wild animal in a cruel or inhumane manner.

(E) *Restraint and confinement*. It is unlawful for any person to permit any animal to run at large.

(F) *Trespasses*. It is unlawful for any person to herd, ride, or drive any animal over and upon any grass, turf, boulevard, city park, cemetery, garden, or lot without specific permission therefor from the owner.

(G) *Biting animals*.

(1) *Animals bites human being*.

(a) Whenever any animal within the corporate limits of the city has bitten any human being, and such animal is of a species which can carry rabies, the city shall impound such animal for a period of 10 days separate and apart from other animals until it is determined whether the animal had or has rabies. If the animal is found to be rabid it shall be destroyed. If it is found not to be rabid, it shall be returned to the owner provided the owner shall first pay for the cost of keeping said animal. If the owner does not claim or retrieve the animal, the animal may be disposed of as provided in this code of ordinances.

(b) Whenever the city can determine the person owning, possessing or harboring the animal that has bitten the human being, the city may permit the owner to impound such animal for a period of 10 days separate and apart from other animals under the supervision of a licensed veterinarian until it is determined whether the animal had or has rabies. If the animal is rabid, it shall be destroyed. In all cases, the city shall make the determination of how the animal shall be impounded, and shall base its decision upon the owner's ability to properly impound the animal, and the current rabies vaccination status of the animal.

(2) *Animal bites animal*. Any animal known to have been bitten or exposed to rabies shall be impounded or destroyed; provided, however, that such animal may be immediately destroyed, if with reasonable effort it cannot first be taken up and impounded. If such an animal is impounded, it shall not be destroyed if the owner makes provision for suitable quarantine for a period of not less than 6 months, or proof of immunization is furnished and booster injections are given by a licensed veterinarian at the expense of the owner.

(H) *Hen chickens*.

(1) No more than 5 hen chickens are allowed on any parcel of land in the city.

(2) Every person who owns, controls, keeps, maintains, or harbors hen chickens must keep them confined on the premises at all times in a chicken coop or chicken run. Hen chickens are not allowed in any part of a house or garage.

(3) Any chicken coop or chicken run must comply with all applicable building and zoning codes and regulations.

(4) No chicken coop or run shall be constructed on any parcel of land before construction of the principal building.

(5) A chicken coop or run cannot be located in the front or side yard.

(6) A chicken coop or run must be setback at least 50 feet from any residential structure on any adjacent lot and at least 10 feet from the property line.

(7) A chicken coop or run must be screened from view with a solid fence or landscaped buffer with a minimum height of 4 feet.

(8) A chicken coop can be no larger than 10 square feet per chicken and cannot exceed 6 feet in height. A chicken run cannot exceed 20 square feet per chicken and the fencing cannot exceed 6 feet in height. A chicken run may be enclosed with wood or woven wire materials, and may allow chickens to contact the ground. A chicken run must have a protective overhead netting to keep the chickens separated from other animals.

(9) A chicken coop must be elevated a minimum of 12 inches and a maximum of 24 inches above grade to ensure circulation beneath the coop.

(10) Chicken grains and feed must be stored in rodent-proof containers.

(11) No chicken may be kept or raised in a manner as to cause injury or annoyance to persons on other property in the vicinity by reason of noise, odor, or filth.

(12) Any chicken running at large may be impounded by the city and, after being impounded for 3 days or more without being reclaimed by the owner, may be destroyed or sold. A person reclaiming any impounded chicken must pay the cost of impounding and keeping the same.

(2013 Code, § 10.22) (Ord. 1, passed 4-1-1979; Ord. 8, passed 6-29-1978; Ord. 66, passed 6-18-1981; Ord. 360, passed 8-5-1993; Ord. 416, passed 7-13-1995; Ord. 885, passed 7-17-2014) Penalty, see § 130.99

§ 130.05 FALSELY REPORTING FIRE.

It is unlawful for any person to inform the Fire Department that a fire is in progress, knowing that it is false and intending that the Fire Department shall act in reliance upon it.

(2013 Code, § 10.27) (Ord. 1, passed 4-1-1979) Penalty, see § 130.99

§ 130.06 OPEN BURNING.

(A) *Burning*. It is unlawful for any person to burn or permit burning of any grass, weeds, leaves, rubbish, or other substance upon premises owned or occupied by that person, except as otherwise provided by this code of ordinances.

(B) *State regulations*. M.S.§§ 88.16 through 88.171, as they may be amended from time to time, are hereby adopted by reference and incorporated as part of this code of ordinances as fully as if set out at length herein

(C) *Exceptions*. The following open burning shall be excepted from the regulation of this section; provided, that with respect to divisions (C)(3), (C)(4), (C)(5), (C)(6), (C)(7), (C)(8), and (C)(9) below, and an appropriate permit shall first be obtained.

(1) Open fires used solely for the preparation of food;

(2) Fires set by the City Fire Prevention Bureau and/or City Fire Department personnel or by their authorized representatives for the instruction and training in the use of fire protection equipment;

(3) Fires set for the instruction and training of public and industrial fire fighting personnel;

(4) Fires set for the elimination of fire hazards which cannot be abated by any other practical means;

(5) Fires set for the clearing of and parcels greater than 20 acres in size;

(6) Running fires on agricultural croplands greater than 5 acres in size;

(7) Running fires conducted by state or federal agencies;

(8) Running fires to cultivate or replace native plant landscapes; provided, that the overall parcel size is greater than 2 acres in size and the fire area is greater than 1/2 acre in size. The property owner and/or occupant shall contract with a company specializing in

native plant landscape management;

(9) Recreational fires; provided, that all of the following criteria are met. For the purpose of this division (C)(9) the following terms shall apply:

RECREATIONAL FIRE.

1. The burning of materials other than rubbish for pleasure, religious, ceremonial, cooking, or similar purposes where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill, or barbecue pit and where the total fuel area is 3 feet or less in diameter and 3 feet or less in height;

2. ***RECREATIONAL FIRES*** shall not be conducted within 25 feet of a single- or multi-family residential structure or commercial structure unless contained in an outdoor fireplace constructed of non-combustible materials containing a base supported by a minimum of 3 legs, a wire mesh screen on all sides, and a lid. Conditions which could cause a fire to spread to within 25 feet of a structure must be eliminated prior to ignition;

3. An outdoor fireplace as defined above shall not be used within 15 feet of a single- or multi-family structure or commercial structure;

4. Buckets, shovels, garden hoses, or a fire extinguisher with a minimum 4-A rating shall be readily available for use at ***RECREATIONAL FIRES;***

5. ***RECREATIONAL FIRES*** shall be constantly attended by a person knowledgeable in the use of fire extinguishing equipment. An attendant shall supervise a ***RECREATIONAL FIRE*** until such fire has been extinguished;

6. Any member of the City Fire Prevention Bureau, Officer of the City Fire Department, State DNR, City Police Department, or County Sheriff Department is authorized to require that ***RECREATIONAL FIRES*** be immediately discontinued if such fires are determined to constitute a hazardous or nuisance condition;

7. ***RECREATIONAL FIRES*** are not allowed if a total burning ban is in effect;

8. Maximum wind speed including gusts must not exceed 15 mph; and

9. The prevailing winds must be away from occupied structures.

RUBBISH. Waste material including, but not limited to, garbage, waste paper, leaves, grass, yard and garden waste, debris from construction or demolition, hazardous materials, oils, rubber, plastic, chemically treated materials, or other materials which produce excessive or noxious smoke.

(10) Bonfires, providing that all the following criteria are met. For the purpose of this division (C)(10) the following terms shall apply:

BONFIRE. The burning of materials other than rubbish for pleasure, religious, ceremonial, cooking, or similar purposes where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill, or barbecue pit and where the total fuel area is greater than 3 feet in diameter and greater than 3 feet in height.

1. Permits will only be issued for bonfires at community involvement functions, spiritual functions, and special event functions approved by the City Fire Prevention Bureau and the City Fire Department.

2. The bonfire shall not be conducted within 250 feet of a single- or multi-family residential structure or any commercial structure. Conditions which could cause a fire to spread, shall be eliminated prior to ignition.

3. The fuel area shall be contained to an area not to exceed 15 feet in diameter.

4. The City Fire Department personnel and apparatus shall be on stand-by at the bonfire site until such time that the fire is, in their judgment, contained.

5. Upon request of the City Fire Prevention Bureau, City Fire Department, or City Police Department, the permit holder shall provide an attendant to supervise the bonfire until such fire has been extinguished.

6. The bonfire shall be immediately discontinued if such fire constitutes a hazardous or nuisance condition.

7. Bonfires will not be allowed if a total burning ban is in effect.

RUBBISH. Waste material including, but not limited to, garbage, waste paper, leaves, grass, yard and garden waste, debris from construction or demolition, hazardous materials, oils, rubber, plastic, chemically treated materials, or other materials which produce excessive or noxious smoke.

(D) *Permit required*. Burning pursuant to divisions (C)(3), (C)(4), (C)(5), (C)(6), (C)(7), (C)(8), and (C)(10) above shall be permitted upon the issuance of a special permit by the City Fire Prevention Bureau, under the following conditions:

(1) The permit holder, or holders authorized representative, will be present at any fire so allowed;

(2) Such burning will be done only when weather conditions are such that resultant smoke will be carried away from the neighboring residences or other affected property owners or public roadways;

(3) Such permit be subject to revocation at any time if the city determines that there is a practical, available alternative method for disposal of the material to be burned or that such burning will constitute a fire hazard, or a health hazard, or that a traffic hazard would result; and

(4) Such burning must be done in accordance with state regulations and this section.

(E) *Fees*. Fees for permits and charges for Fire Department response to a permitted fire shall be the responsibility of the permit holder. Fees shall be based on the city fee schedule.

(2013 Code, § 10.29) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992; Ord. 408, passed 3-16-1995; Ord. 562, passed 11-11-1999; Ord. 581, passed 10-5-2000; Ord. 599, passed 6-14-2001)

§ 130.07 ADOPTION OF THE STATE FIRE CODE.

The following are amendments to the State Fire Code.

(A) Section 103.1 of the State Fire Code is hereby amended to read: A Fire Prevention Bureau is hereby established within the city. The Bureau shall consist of such personnel as may be assigned thereto by the city and/or the Fire Chief. The function of this Bureau shall be the implementation, administration, and enforcement of the provisions of this code.

(B) Section 105.1.1 of the State Fire Code is changed by adding a new section 105.1.1.1 to read: 105.1.1.1 Fees for Permits. Fees for permits required by this Code shall be based on the city fee schedule.

(C) Section 202, Amendment F of the State Fire Code is changed by modifying the definition of Fire Chief to read: Fire Chief. The chief officer of the Fire Department serving the jurisdiction or the Chief's authorized representatives. For the purposes of enforcing this Code, the term ***CHIEF*** also includes the representatives of the City Fire Prevention Bureau and the State Fire Marshal's office.

(D) Section 903.3.1.5 of the State Fire Code is changed by adding the following uses:

(1) Cafeterias with an occupant load of 100 or more in Group A, Group E, or Group R occupancies; and

(2) Multi-purpose rooms with an occupant load of 100 or more in Group A, Group E, or Group R occupancies.

(E) Section 903.4.1 of the State Fire Code is hereby changed by modifying Exemption 3 to read: For existing sprinkler systems installed on or after July 1, 1998, monitoring is required when the number of sprinklers is 20 or more. For existing sprinkler systems installed prior to July 1, 1998, monitoring is required when the number of sprinklers is 100 or more.

(F) Section 903.4.2 of the State Fire Code is changed to read:

(1) *903.4.2 Alarms*. Approved audible devices shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. An approved audible alarm device shall be provided in the interior of the building in a normally occupied location. An approved audible and visual device shall be provided on the exterior of the building in an approved location.

(2) *903.4.2.1 Multiple Tenant Buildings*. Multiple tenant buildings shall be provided with an approved audible alarm device in each tenant space. The device shall be located in a normally occupied location.

(G) Section 905.3.1. of the State Fire Code is changed to read.

(1) *905.3.1 Building Height*. Class III standpipe systems shall be installed throughout buildings where the floor level of the highest story is located 30 feet or more above the lowest level of Fire Department vehicle access, or where the highest story is located

3 or more stories above the highest level of Fire Department vehicle access, or where the floor level of the lowest story is located 20 feet or more below the highest level of Fire Department vehicle access.

(2) *Exceptions*. Exceptions to section 905.3.1 shall not be amended.

(H) Ch. 10 of the State Fire Code is changed by adding a new section 1012 to read:

(1) *Overcrowding*. Section 1012 Overcrowding and Standby Personnel;

(2) *1012.1 Overcrowding*. Overcrowding and admittance of persons beyond the approved capacity of a place of assembly are prohibited. The code official, upon finding overcrowding conditions or obstructions in the aisles, aisle access ways, or other means of egress, or upon finding a condition which constitutes a serious menace to life, is authorized to cause the performance, presentation, spectacle, or entertainment to be stopped until such condition or obstruction is corrected; and

(3) *1012.2 Standby Personnel*. When, in the opinion of the code official, it is essential for public safety in a place of assembly or any other place where people congregate, due to the number of persons, or the nature of the performance, exhibition, display, contest, or activity, the owner, agent, or lessee shall employ 1 or more qualified persons, as required and approved, to be on duty at such place. Such individuals shall be subject to the code official's orders at all times when so employed and shall be in uniform and remain on duty during the times such places are open to the public, or when such activity is being conducted. Before each performance or the start of such activity, such individuals shall inspect the required safety appliances provided to see that they are in the proper location and are in good working order, and shall keep diligent watch for fires or other public safety hazards during the time such place is open to the public or such activity is being conducted and take prompt measures for extinguishment of fires that may occur. Such individuals shall not be required or permitted, while on duty, to perform any other duties than those herein specified.

(I) The following appendices of the International Fire Code are adopted by reference. One copy of the code shall be kept on file in the office of the Fire Prevention Bureau:

(1) Appendix B - Fire Flow Requirements for Buildings;

(2) Appendix C - Fire Hydrant Locations and Distribution;

(3) Appendix D - Fire Apparatus Access Roads;

(4) Appendix E - Hazard Classifications;

(5) Appendix F - Hazard Ranking; and

(6) Appendix G - Cryogenic Fluids - Weight and Volume Equivalents.

(J) Appendix H of the State Fire Code is not adopted.

(2013 Code, § 10.35) (Ord. 566, passed 3-30-2000; Ord. 665, passed 5-29-2003)

§ 130.08 HAZARDOUS MATERIALS.

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

CHEMICALS. All agricultural chemicals, all toxic, flammable, and caustic chemicals and all materials in liquid, gas, inert, or solid form.

(B) *Storage area enclosed*. All storage areas for chemicals shall be partitioned off from the rest of the area and be locked when not in use.

(C) *Information required*. The location of all storage areas for chemicals shall be reported annually in writing to the Police Department and the Fire Department; such writings to contain the location and layout of the storage area; types of materials stored therein; the hazards involved; and the names, telephone numbers and addresses of the persons responsible for the storage area.

(D) *Additional storage requirements*.

(1) All containers containing chemicals shall be stored a sufficient distance away from windows and other openings and out of the sun so that they will not be subject to heat and ignition.

(2) All combustible chemicals shall be stored a sufficient distance away from steam lines and heat so as not to be subject to heat and ignition.

(3) All highly toxic pesticides shall be stored in 1 common area.

(E) *Explosives*.

(1) Any use requiring the storage, utilization, or manufacturing of products which could explode shall be located at least 400 feet from any residence.

(2) This provision shall not apply to the storage or usage of liquified petroleum or natural gas for normal residential or business purposes.

(F) *Prohibited actions and occurrences*.

(1) It is unlawful for any person to cause or allow any hazardous, flammable, or toxic materials, liquids or gases as defined herein, to be improperly stored, spilled, or dumped upon any premises owned or occupied by that person.

(2) It is unlawful for any person to dump or spill any hazardous, flammable, or toxic materials or liquids or gases as defined herein upon any private or public property.

(G) *Responsibility for cleanup*.

(1) Any person who causes or allows any hazardous, flammable, or toxic materials, liquids or gases as herein defined to be spilled, dumped, or improperly stored on any private or public property shall be liable to the city for any material or labor provided by the city, its Police Department, its Fire Department, or its Public Works Department in cleaning it up or removing it from the property or otherwise correcting the situation.

(2) Any unpaid charges for said cleanup or removal as herein provided shall be a lien against the property or any other property owned by the person who has caused the situation or permitted the situation to arise, except as are exempt by law, and may be collected as a special assessment, as provided by statutes.

(2013 Code, § 10.36) (Ord. 56, passed 2-26-1981; Ord. 338, passed 8-6-1992) Penalty, see § 130.99

§ 130.09 FIRES, OPEN FLAMES, OR BARBEQUES ON BALCONIES OR PATIOS.

(A) *Fires prohibited*. In or on any structure containing 3 or more dwelling units, it is unlawful for any person to kindle, maintain, or cause to be kindled and maintained any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of said structure.

(B) *Storage of fuels and devices prohibited*. It is unlawful for any person to store or use any charcoal, lighter fluid, natural gas, propane, fuel, barbecue grill, fire pit, torch, or other similar heating device, lighting chemical, or other open flame device in the locations designated above.

(C) *Exceptions*. The following exceptions shall apply:

(1) Listed electric grills which are permanently mounted or portable electric grills which maintain a minimum of 30 inches of clearance from all combustibles (unless listed for lesser clearance by the manufacturer) may be used within 15 feet of the structure and may be used on balconies above ground level;

(2) Permanently mounted gas fired grills which are plumbed to the buildings gas system and maintain a minimum of 30 inches clearance to all combustibles may be used on the ground level. Existing permanently mounted gas fired grills may remain on balconies above ground level. Replacement of existing grills and new grill installation is not allowed on balconies that are above ground level; and

(3) Grills that are cold to the touch may be stored adjacent to the structure on the ground level only.

(2013 Code, § 10.37) (Ord. 265, passed 6-23-1989; Ord. 819, passed 5-14-2009) Penalty, see § 130.99

§ 130.10 CONSUMER FIREWORKS.

(A) *Purpose*. 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.

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

CONSUMER FIREWORKS. Wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and non-aerial and contain 65 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes, and glow works, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than 25 hundredths grains of explosive mixture.

LARGE FACILITY. A facility where the net weight of pyrotechnics compound greater than 125 pounds is stored or displayed (net weight of pyrotechnics compound in fully sprinklered facilities greater than 250 pounds). If the net weight is not available, 25% of the gross weight shall be used to calculate the weight of pyrotechnics compound.

SMALL FACILITY. A facility where the net weight of pyrotechnics compound of 125 pounds or less is stored or displayed (net weight of pyrotechnics compound in fully sprinklered facilities of 250 pounds or less). If the net weight is not available, 25% of the gross weight shall be used to calculate the weight of pyrotechnics compound.

(C) *Permit required*. It is unlawful for any person to sell, offer for sale, expose for sale, or sell at retail or wholesale any consumer fireworks in the city without first having obtained a permit from the City Fire Prevention Bureau.

(D) *Permit application*. The applicant shall completely fill out and submit an application form for a consumer fireworks permit prepared by the city. Information to be submitted as part of the permit application includes, but is not necessarily limited to the following information: name, address, and telephone number of the applicant; address of location where the fireworks will be sold; a description of the fireworks to be sold; estimated weight and quantity of the fireworks that will be stored on the premises; description of the premises and facility from which the fireworks are proposed to be sold; a site plan showing the location of the facility on the property; and permission from the person legally responsible for the property on which such sale is to take place for the use of the property. Applications must be made a minimum of 5 days prior to the date when the activity is to commence.

(E) *Conditions of permit*. A permit to sell consumer fireworks shall be issued only upon the following terms and conditions:

(1) *General conditions*.

(a) A determination by the City Fire Prevention Bureau that the location where the consumer fireworks are to be stored or sold is not hazardous to property or endangers any person;

(b) Any permit issued is non-transferable, either to a different person or location;

(c) The permit must be publicly displayed on the premises;

(d) The premises are subject to inspection by city employees during normal business hours of the premises for the purpose of inspecting the building or property and for the purpose of checking for violations of this section. Upon request, the licensee must provide a test sample to the Inspector for the purpose of verifying the chemical content of the merchandise;

(e) The sale of consumer fireworks is permitted only in B-1, I-1 and I-2 zoning districts where commercial or industrial activities are authorized under the applicable zoning regulations of the city;

(f) Storage of consumer fireworks on the premises must be in compliance with the State Fire Code;

(g) The premises must be in compliance with the State Fire Code and the State Building Code;

(h) Consumer fireworks shall not be sold to persons under the age of 18;

(i) Where retail sales of consumer fireworks are not conducted within a permanent structure, the retail sales area shall be covered by a canopy, tent, or permanent membrane structure;

(j) Public address systems shall not be audible outside any permanent or temporary consumer fireworks retail sales facility;

(k) Consumer fireworks retail sales facilities shall not block any sidewalk, public right-of-way, or alley. Additional setback requirements may apply based on zoning requirements. All facilities shall be located as approved by the City Fire Prevention Bureau and the city;

(l) Tents, canopies, and temporary membrane structures shall be used for a period of not more than 180 days within a 12-month

period on a single premises

(m) No signs may be installed, modified or maintained without first obtaining a sign permit (including temporary signs). Contact the Planning Department for a copy of the sign permit application. Submittal of a permit includes: the application; fee, site plan, to-scale wall and/or freestanding sign drawings; and the period of installation (if temporary);

(n) No signage is allowed in the public right-of-way (typically an area that extends from the curb to approximately 12 feet behind the curb);

(o) One temporary sign is allowed per property, with a maximum area of 32 square feet and a display period not to exceed 30 days per calendar year; provided, a sign permit is obtained prior to installation;

(p) When a consumer fireworks retail facility is located in a temporary structure, a minimum of 1 on-site parking space shall be provided for each 500 square feet of gross sales area; and

(q) The permit can be revoked at the discretion of the Fire Inspector if these or any additional conditions of the permit are not complied with.

(2) *Conditions for large facilities*. Large facilities shall meet the requirements of M.S. § 624.20, as it may be amended from time to time.

(3) *Conditions for small facilities*.

(a) Small facilities shall be limited to Group B and Group M occupancies when located in permanent structures. The occupancy class shall be determined based on the requirements of the State Building Code.

(b) A site plan for the small facilities shall be provided with the permit application.

(c) Small facilities shall only be permitted in structures not exceeding 1 story in height when the structure is of permanent construction. Retail sales shall not be allowed in basements.

(d) Where small facilities are located in a tent, canopy, or membrane structure, the structure shall comply with the State Fire Code.

(e) Where small facilities are located in multiple-tenant buildings, the minimum separation from other tenants shall be by a fire barrier with a minimum fire resistance rating of 1 hour. Where the structure is provided with a fire sprinkler system designed and installed in accordance with NFPA 13, the barrier shall not be required to be rated.

(f) Portable fire extinguishers are required. Maximum travel distance to a fire extinguisher in a permanent structure shall be 75 feet and in temporary facilities shall be 35 feet. All small facilities shall have a minimum of 1 2A:20BC fire extinguisher. Small facilities with 1,000 square feet or more of gross floor area shall provide a minimum of 2 2A:20BC fire extinguishers.

(g) Small facilities shall be located so that no portion of an exterior wall of the structure, sidewall, of a tent, or other defined perimeter or the facility shall be located more than 150 feet from a public way or an approved fire apparatus access road.

(h) Combustible materials including dry grass, dry brush, and combustible debris shall be kept a minimum of 30 feet from any small facility.

(i) Parking of vehicles or trailers is prohibited within 10 feet of small facilities.

(j) No fireworks shall be discharged within 300 feet of the facility. At least 1 sign shall be conspicuously posted on the exterior of each side of the facility. This sign shall have letters at least 4 inches in height on a contrasting background and shall read, "NO FIREWORKS DISCHARGE WITHIN 300 FEET".

(k) Smoking shall be prohibited within the premises. When the sales area is enclosed within or protected under any temporary structure, tent, or canopy, smoking shall also be prohibited within 25 feet of any portion of the premises. No smoking signs shall be posted at each entrance and throughout the sales area;

(l) Minimum setback from any lot line shall be 20 feet, unless the facility is located in a permanent building;

(m) Minimum setback from any other structure shall be 20 feet, unless the facility is located in a permanent building;

(n) Minimum setback from motor vehicle fuel-dispensing station dispensers, propane-dispensing station, compressed natural gas dispensing station, and propane cylinder exchange enclosures shall be 25 feet.

(o) Small facilities shall be provided with a minimum of 2 exits. The minimum exit width shall be 32 inches. All exits shall be provided with internally or externally illuminated or self-luminous exit signs. The means of egress shall be provided with emergency lighting.

(p) Travel distance to an exit shall not exceed 75 feet. When the facility is located in a temporary structure and the gross floor area exceeds 800 square feet, the maximum travel distance to an exit shall not exceed 35 feet.

(q) Aisles shall have a minimum clear width of 36 inches. In retail sales stands where the interior is not accessible to the public, the minimum clear aisle width shall not be less than 28 inches.

(r) Merchandise and display fixtures shall be limited to 6 feet in height within the consumer fireworks retail sales area.

(s) All fireworks shall be contained in their original packaging. Damaged packages shall be removed from sale. The sale of unpackaged fireworks is prohibited.

(t) Electrical equipment shall meet applicable codes.

(u) Heating sources shall be listed and shall be used in accordance with their listing. Temporary heat sources shall have tip-over and temperature-overheat protection. Open-flame and exposed-element heating devices are prohibited.

(v) Portable generators and their fuels shall be located not less than 20 feet from any small facility.

(w) Cooking equipment of any type shall not be permitted within 20 feet of any temporary facility.

(x) Small facilities shall be secured when unoccupied and not open for business, unless fireworks are not kept in the facility during such times.

(y) Minimum of 50% of the floor area of the premises shall be open space that is unoccupied by fireworks displays and is used for aisles and cross-aisles.

(z) Housekeeping shall be kept neat and orderly at all times.

(aa) Safety training shall be provided to all personnel handling consumer fireworks.

(bb) Any person selling consumer fireworks shall not knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.

(cc) Inventory records shall be maintained and shall be available for inspection upon request.

(F) *Permit fee*. The permit fee shall be in the amount set forth in the city fee schedule. Permits shall be issued for a calendar year (January to December) and will not be pro-rated.

(2013 Code, § 10.38) (Ord. 629, passed 6-13-2002; Ord. 693, passed 2-5-2004; Ord. 698, passed 4-15-2004) Penalty, see § 130.99

§ 130.11 PUBLIC NUISANCE.

(A) *Generally*. It is unlawful for any person to maintain a public nuisance by their act or failure to perform a legal duty.

(B) *Description of nuisance*. A public nuisance includes the following:

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

(2) Interfering with, obstructing, or rendering dangerous for passage, any street, public right-of-way, or waters used by the public;

(3) Allowing noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other adverse influences that in any way have an objectionable effect upon adjacent or nearby property;

(4) Failing to dispose of waste in a manner that is not dangerous to public health and safety, and that does not damage public waste transmission or disposal facilities;

(5) Emitting odors that exceed the standards stated in the Air Pollution Control Regulations, Numbers 9 and 10;

(6) Allowing the effluence from any cesspool, septic tank, drainfield, or human sewage disposal system, to discharge upon the

surface of the ground, or dumping the contents thereof at any place except as authorized;

(7) Allowing the pollution of any public well or cistern, stream, or lake, canal, or body of water by sewage, industrial waste, or other substances;

(8) Owning, possession, or having control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, which is exposed and accessible to the public, without removing the doors, lids, hinges, or latches or providing locks to prevent access by the public;

(9) (a) Failing to remove or cover graffiti within 10 calendar days, after receiving written notice from the city to remove graffiti.

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

GRAFFITI. Any inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of a permanent structure, fixture, or object, including, but not limited to, buildings, walls, fences, bridges, benches, shelters, sidewalks, hydrants, fountains, pavement, curbs, trees, rocks, signs, utility poles, or boxes situated on public or private property, to the extent that the inscription, word, figure, painting, or other defacement was not authorized in advance by the responsible party for the property.

RESPONSIBLE PARTY. An owner, legal occupant, or an entity or person acting as an agent for an owner who has authority over the real property or is responsible for the property's maintenance or management. There may be more than 1 responsible party for a particular property.

(10) Any other act or omission declared by law to be a public nuisance.

(C) *Graffiti abatement*.

(1) *Notice*. The City Administrator, or Administrator's agent, may notify the responsible party to remove graffiti from the property. The City Administrator will send notice to the responsible party by mail or by personal delivery.

(2) *City removal*. If the responsible party does not remove graffiti, as defined in division (B)(9)(b) above within 10 calendar days after receiving notice from the city, the city may remove the graffiti in a manner it deems appropriate.

(D) *Right to hearing*. At any time prior to the city's removal of the graffiti, the responsible party may submit a written request for a hearing before the City Council to show cause why the graffiti should not be removed. At the hearing, the responsible party may present relevant testimony and evidence. The Council will make findings either for or against the removal of the graffiti.

(E) *Costs*. If the city removes the graffiti, the responsible party must reimburse the city for its actual costs within 30 days after the city has mailed the bill for the costs. If the responsible party does not reimburse the city within 30 days, the city's costs will be charged as a lien upon the affected real estate and collected in the manner provided by law for the collection of special assessments.

(2013 Code, § 10.53) (Ord. 1, passed 4-1-1978; Ord. 338, passed 8-6-1992; Ord. 777, passed 5-31-2007) Penalty, see § 130.99

§ 130.12 PERMITTING A PUBLIC NUISANCE.

It is unlawful for any person to permit real property under their control to be used to maintain a public nuisance, or let the same to another knowing it is to be so used.

(2013 Code, § 10.54) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 130.99

§ 130.13 BUNGEE JUMPING ON CITY PROPERTY.

(A) *Purpose*. The City Council finds that the practice of bungee jumping, also known as bungee cord jumping and reverse bungee jumping, has resulted in personal injuries and deaths which are likely to continue to occur. The City Council notes that most bungee jumping operations are conducted in combination with the use of a crane which has not been designed or manufactured for those purposes. The City Council concludes that bungee jumping is an inherently dangerous and life-threatening practice, likely to cause great harm or death to the participants.

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

different meaning.

BUNGEE JUMPING. The sport, activity, or practice of jumping, stepping out, dropping, or otherwise being released into the air while attached or fastened to a cord made of rubber, latex, or other elastic type material, whether natural or synthetic, whereby the cord stops the fall, lengthens and shortens, allows the person to bounce up and down and is intended to finally bring the person to a stop at a point above the surface.

(C) *Prohibition*. The practice of bungee jumping in any form whatsoever, whether open to the general public or for demonstration, exhibition, or other purpose, on city property, is hereby prohibited.

(2013 Code, § 10.57) (Ord. 365, passed 2-10-1994) Penalty, see § 130.99

§ 130.14 JUMPING RIDES.

(A) It is unlawful for any person to ride in or jump into or upon any vehicle without the consent of the driver and no person shall, when riding, allow any part of the body to project beyond the limits of any motor vehicle except when signaling as required, nor shall any person board or alight from nor hang on to any motor vehicle when such motor vehicle is in motion. If the driver of any vehicle shall permit anyone to do any of the things prohibited hereby, the driver shall also be guilty of a violation hereunder.

(B) This section shall not apply to any person whose employment makes it necessary to ride in or on a vehicle otherwise than as herein provided, when engaged in the necessary duties of such employment; nor shall it apply to any person participating in a duly authorized parade, carnival, or show.

(2013 Code, § 10.59) (Ord. 12, passed 9-21-1978; Ord. 337, passed 7-23-1992) Penalty, see § 130.99

§ 130.15 SHADE TREE DISEASE AND SHADE TREE PEST CONTROL AND PREVENTION.

(A) *Policy and purpose*. The city has determined that the health of shade trees is threatened by fatal disease and pests. It has further determined that the loss of shade trees located on public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare, and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these diseases and pests, and provide for the removal of dead or diseased trees, as nuisances.

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

NUISANCE.

(a) Any living or standing tree infected to any degree with a shade tree disease or shade tree pest; or

(b) Any logs, branches, stumps, or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the Tree Inspector.

SHADE TREE DISEASE. A disease affecting an over story deciduous tree such as Dutch elm disease or oak wilt disease.

SHADE TREE PEST. Any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest such as the Emerald Ash Borer.

TREE INSPECTOR. The City Administrator, or such other employee of the city as the Council may designate and who shall thereafter qualify, together with their duly designated assistants.

(C) *Scope and adoption by reference*. M.S. §§ 89.001, 89.01, 89.51 through 89.64, Ch.18G, as they may be amended from time to time, and M.S. Ch. 18J, as it may be amended from time to time, inclusive, as they may be amended by from time to time, are hereby adopted by reference and incorporated as part of this code of ordinances as fully as if set out at length herein, together with the rules and regulations of the State Commissioner of Agriculture relating to shade tree diseases; provided, that this section shall supercede such statutes, rules, and regulations, only to the extent of inconsistencies.

(D) *Unlawful act*. It is a petty misdemeanor for any person to keep, maintain, or permit upon premises owned by that person or upon public property where that person has the duty of tree maintenance, any nuisance as herein defined.

(E) *Inspection and diagnosis*. It is the power and duty of the Tree Inspector to enter upon public and private property, at any reasonable time, for the purpose of inspecting for, and diagnosing, shade tree disease or a shade tree pest, in cases of suspected shade tree disease or shade tree pest, and in performance of Inspector's duties, the Tree Inspector may remove such specimens, samples, and biopsies as may be necessary or desirable for diagnosis.

(F) *Abatement of nuisance*. Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease or shade tree pest. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the state. The city shall establish specifications for tree removal and disposal methods consistent therewith.

(G) *Procedure for removal of infected trees and wood.*

(1) Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, the Tree Inspector shall proceed as follows.

(a) The Tree Inspector shall notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice will be filed with the Parks, Recreation, and Natural Resources Department.

(b) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance.

(c) If the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to enter the property, and carry out abatement in accordance with the notice of abatement.

(2) If the Tree Inspector determines that the danger if infection or infestation to other shade trees is imminent, and delay in control measures may put public health, safety, or welfare in immediate danger, the Tree Inspector may provide for abatement without following division (G)(1) above or division (H) below. The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and any cost recovery by the next regularly scheduled Council meeting.

(3) Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(4) The Tree Inspector shall keep a record of the costs of abatements done under this division (G) and shall report quarterly to the City Administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(5) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

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

(7) No damage shall be awarded the owner for destruction of any tree, wood, or part thereof pursuant to this section.

(H) *High-cost abatement*. If the Tree Inspector determines that the cost of abating a nuisance will exceed $5,000 based on a reasonable, good faith estimate, the written notice referred to in division (G) above must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

(I) *Spraying trees*.

(1) Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, the Tree Inspector may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this division (I) shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commission and Inspector's agents whenever possible.

(2) The notice and assessment provisions of division (G) above apply to spraying and treatment operations conducted under this division (I).

(J) *Transporting wood prohibited*. It is against the law (M.S.§§ 89.551, § 2, subd. 3b, as it may be amended from time to time) to bring unapproved firewood into any state park, state forest, or day-use area.

(K) *Interference prohibited*. It is a petty misdemeanor for any person to prevent, delay, or interfere with the Tree Inspector while the Tree Inspector is engaged in the performance of duties imposed by this

(L) *Additional duties of Tree Inspector*. It is the additional duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the city relating to the control and prevention of shade tree disease or shade tree pests. The Tree Inspector shall recommend to the Council the details of a program for the control of the diseases or pests, and perform the duties incident to such a program adopted by the Council.

(M) *Diseased trees in streets*. The rights, duties, and responsibilities of property owners set forth in this section shall be equally applicable to, and binding upon, abutting property owners with tree maintenance responsibilities under § 90.05.

(N) *Subsidies*. The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the city for the treatment or removal of trees infected with shade tree disease or shade tree pest.

(2013 Code, § 10.70) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992, Ord. 826, passed 12-10-2009) Penalty, see § 130.99

§ 130.16 RULES AND REGULATIONS GOVERNING PUBLIC PARKS.

The City Administrator is hereby empowered to issue and promulgate such regulations as may be necessary from time to time for the protection and proliferation of wild animals and birds and their natural habitat within public parks. In addition, the City Administrator shall, as the Council may from time to time direct, make such improvements within the parks as may be beneficial to foster, and encourage the proliferation of wild animals and birds in the park and the enjoyment thereof by the public.

(2013 Code, § 10.71) (Ord. 101, passed 9-16-1982)

§ 130.17 MAINTENANCE OF VEGETATION.

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

GARDEN. A cultivated area dedicated to growing vegetables, fruits, flowers, ornamental grasses, groundcovers, shrubs, and similar plants that were planted in a well defined location.

NATIVE PLANTED AREA. An area where native plants are being or have been seeded or planted and are currently being maintained to remove weeds in a designated area. A ***NATIVE PLANTED AREA*** does not include a garden.

NATIVE PLANTS. Those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants), trees, and shrubs that are plant species native to the state, excluding prohibited noxious species as identified and defined by the State Department of Agriculture. ***NATIVE PLANTS*** do not include weeds.

NATURAL AREA. An area that was purposely left to grow in a natural state and can maintain itself in a stable condition without human intervention and contains native plants. An area containing more than 50% turfgrass and/or weeds and is not maintained is not a natural area.

ORNAMENTAL GRASSES. Grasses that are not native to the state that are intended to add beauty to a garden. ***ORNAMENTAL GRASSES*** do not include turfgrasses or weeds.

TURFGRASS. Commercially available cultured grass varieties, including bluegrass, fescue, and ryegrass blends, commonly used in regularly cut lawn care areas.

WEEDS.

(a) Noxious weeds as identified and defined by the State Department of Agriculture; or

(b) The City Weed Inspector shall maintain a list of volunteer plants that are prohibited.

(B) *Herbaceous vegetation heights*. An owner, occupant, or agent of any lot or parcel of land in the city, other than the agricultural preservation, shall not allow any herbaceous vegetation growing upon such lot or parcel of land or growing upon city right-of-way which abuts the lot or parcel of land, including the area between any sidewalk or trail and the curb of the street, to a greater height than 8 inches or to allow such herbaceous vegetation to go to seed.

(C) *Private property*. The provisions of division (B) above shall not apply on private property as follows:

(1) To herbaceous vegetation that is located:

(a) On slopes greater than or equal to 3 feet horizontal to 1-foot vertical (3:1);

(b) In natural areas;

(c) In a conservation easement;

(d) In a garden;

(e) In city park and open space;

(f) In a wetland or floodplain area designated on the official zoning map; or

(g) Within a drainage pond or ditch which stores or conveys stormwater.

(2) To native planted areas; provided, that:

(a) They are setback not less than 20 feet from the front lot line. For the purposes of this section, corner lots shall be deemed to have 2 front yards;

(b) They are setback not less than 5 feet from the side and/or rear lot lines to provide a transition zone. No setback is required on the side or rear lot lines if:

1. There is a fully opaque fence at least 5 feet in height installed between the native plants and the side or rear lot lines; or

2. The native plants abut a neighboring native planted area. Plantings must not impede drainage.

(c) The native plant landscape area is maintained either by removing weeds, mowing, or city-approved and permitted burning.

(D) *Setback maintenance*. The setback area required by division (C) above shall be composed of regularly mowed turfgrass, garden beds, trees, shrubs, mulch, wood chips, rock, and/or gravel consistent with this code of ordinances. Plantings must not impede drainage.

(E) *Visual obstructions*. The native planted area, garden, or natural area shall not obscure, block, or impede visual sight lines, fire hydrants, regulatory, warning, or street identification signs, or street light illumination required to ensure the safe and efficient circulation of vehicles and pedestrians on streets, intersections, trail, pathways, and sidewalks.

(F) *City property or easements*. The city may require the owner or occupant who has planted, or has allowed to be planted, native plants, or other vegetation within a drainage and utility easement or a right-of-way of a city street to remove the native plants or other vegetation from the right-of-way drainage and utility easement at no expense to the city. The city will not be responsible for damage to turfgrass and/or any landscaped areas resulting from public works improvements or snow removal activities within rights-of-ways or drainage and utility easements.

(G) *Notice and assessment*.

(1) *Notice*. Once a failure to comply with the requirements of this section are identified, notice of such failures shall be given by the city to the affected property owner. The notice shall state and describe the property affected; allow 7 days for the property owner to cause such vegetation to be cut, removed, and/or treated for weeds; that if such vegetation is not cut, removed, and/or treated for weeds within the stated time the city will cause such vegetation to be cut, removed, and/or treated for weeds; that all cost thereof will be billed to the property owner payable within 30 days, the costs will be assessed against the property from which such vegetation has been removed pursuant to and in accordance with M.S. § 429.101, as it may be amended from time to time, or any similar provision hereafter enacted.

(2) *Assessment*.

(a) In all cases in which vegetation is cut, removed, and/or treated for weeds or caused to be by the city, the costs, if not paid by the owner as provided in this division (G), shall be assessed against the property from which such vegetation is cut, removed, and/or treated for weeds pursuant to and in accordance with M.S. § 429.101, as it may be amended from time to time, or any similar provision hereafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed 1 year from the date of assessment.

(b) The city will not be responsible for damage to turfgrass and/or any landscaped areas resulting from enforcement of this section.

(2013 Code, § 10.73) (Ord. 806, passed 9-11-2008) Penalty, see § 130.99

§ 130.18 JUNK CARS, FURNITURE, HOUSEHOLD FURNISHINGS, AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY.

It is unlawful to park or store any unlicensed, unregistered, or inoperable vehicle, furniture, household furnishings, or appliances, or parts or components thereof, on any property, public or private, unless housed within a building, and any violation is hereby declared to be a nuisance. For the purposes of this section, an ***INOPERABLE VEHICLE*** shall be defined as in state statutes. This section shall not apply to premises on which a duly licensed junk dealer properly carries on such licensed business, nor shall it apply to a disposal area operated by a governmental unit.

(2013 Code, § 10.74) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.19 SMOKING ON COMMUNITY ACTIVITY CENTER PROPERTY.

It is unlawful for any person to smoke on the grounds of the Community Activity Center property. For purposes of this section, the term ***SMOKE*** includes smoking or carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment.

(2013 Code, § 10.79) (Ord. 522, passed 8-13-1998) Penalty, see § 130.99

§ 130.20 SOCIAL HOSTS.

(A) *Purpose*. The City Council desires to protect the health, safety, and welfare of all persons living in and visiting the city. The use of alcohol by persons under the age of 21 is prohibited by state statute. The 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 the age of 21 possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol or was present.

(B) *Findings*. The City Council finds that:

(1) Alcohol is an addictive drug which, 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;

(2) Consumption of alcohol by persons under the age of 21 is harmful to those persons and constitutes a potential threat to public safety from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions;

(3) As a result, events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 should be prevented as much as possible;

(4) Events or gatherings involving underage possession and consumption often occur outside the presence of parents or other responsible adults; however, there are times when a parent or other adult is present and condones the activity, and, in some circumstances, provides the alcohol;

(5) 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; and

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession of consumption occurs.

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

ALCOHOL. 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.

ALCOHOLIC BEVERAGE. Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains 1/2 of 1% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

EVENT or ***GATHERING.*** Any group of 3 or more persons who have assembled or gathered together for a social occasion or other activity.

HOST. To aid, conduct, sponsor, allow, entertain, organize, supervise, control, or permit a gathering or event, whether the host is present or not.

PARENT. Any person having the following relationship to a juvenile:

(a) A natural parent, adoptive parent, or step-parent;

(b) A legal guardian; or

(c) A person to whom legal custody has been given by order of the court.

PERSON. Any individual, partnership, co-partnership, corporation, or any association of 1 or more individuals. ***PERSON*** does not include a city, county, or state agency.

RESIDENCE or ***PREMISES.*** 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.

UNDERAGE PERSON. An individual under 21 years of age.

(D) *Prohibited acts*.

(1) It shall be unlawful for any person to host an event or gathering at any residence or premises where alcohol or alcoholic beverages are present when the person hosting the event or gathering knows that an underage person:

(a) Will or does consume alcohol or an alcoholic beverage; or

(b) Possesses alcohol or an alcoholic beverage with the intent to consume it.

(2) A person is criminally responsible for violating division (A)(1)(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(E) *Exceptions*.

(1) This section does not apply to conduct solely between an underage person and his or her parent while present in the parents household.

(2) This section does not apply to a legally protected religious observance.

(3) This section does not apply to retail intoxicating liquor or 3.2% malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by M.S. § 340A.503, subd. 1(a)(1), as it may be amended from time to time, but it does apply to a person who hosts a gathering or event at such liquor establishment.

(4) 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 their employment.

(2013 Code, § 10.81) (Ord. 1, passed 4-1-1978; Ord. 403, passed 3-2-1995; Ord. 823, passed 7-30-2009) Penalty, see § 130.99

§ 130.35 UNLAWFUL DEPOSIT OF LITTER.

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

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized by provisions of this code of ordinances and regulations as to the city refuse collection system.

GARBAGE. Putrescible animal and vegetable wastes resulting from handling, preparation, cooking, and consumption of food.

LITTER. Garbage, refuse, and rubbish as defined herein, and all other waste material which, if thrown, deposited, maintain, or stored as herein prohibited, tends to create a danger to public health, safety, and welfare.

PARK. A park, reservation, playground, beach, recreation center, or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

PUBLIC PLACE. Any and all streets or other public ways and any and all public parks, ravines, spaces, grounds, and buildings.

REFUSE. All putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, unlicensed or inoperative vehicles, and solid commercial and industrial wastes.

RUBBISH. Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, scrap metal, scrap lumber, used vehicle parts, and similar materials.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon on a highway, including, but not limited to, devices such as automobiles, trucks, bicycles, motorcycles, snowmobiles, trailers of any kind, and similar forms of conveyance.

(B) *Litter in public places*. It is unlawful for any person to throw or deposit litter in or upon any street or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city landfills. Persons placing litter in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street or other public place or upon private property.

(C) *Litter on gutters and sidewalks prohibited*. It is unlawful for any person to sweep into or deposit in any gutter, street, or other public place within the city any litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property, including commercial or industrial property, shall keep the sidewalk or boulevard in front of their premises free of litter at all times.

(D) *Litter from vehicles*. It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the city, or upon private property. No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, or other public place, or upon private property. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

(E) *Litter in parks, lakes, and streams*. It is unlawful for any person to throw or deposit litter in any park, lake, or stream within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of park, lake, or stream or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park, lake, or stream by the person responsible for its presence and properly disposed of elsewhere.

(F) *Litter on private property*. It is unlawful for any person to throw, deposit, maintain, or store outside any litter on any private property within the city, whether owned by such person or not, and the owner and the person in control of any such private property shall at all times maintain the premises free of litter; provided, however, that this division (F) shall not prohibit the storage of litter in authorized private receptacles for collection.

(G) *Exceptions in proper zones*. This section shall not prohibit the lawful keeping of vehicles defined as "refuse" herein on private property under the following circumstances:

(1) On property duly licensed as a junkyard in an appropriate zone under Ch. 151;

(2) When stored inside buildings, provided said building and land usage complies with all applicable codes and provisions of this code of ordinances regulating the special hazards and usage thereof; or

(3) Temporary outside storage, not exceeding 60 days, in appropriate commercial or industrial zones, under Ch. 151, while awaiting repair work thereon.

(H) *Clearing of litter from private property by city*.

(1) *Notice*. The City Administrator, or the Administrator's duly authorized agent, is hereby authorized and empowered to notify the owner of any private property within the city, or the agent of such owner, to properly dispose of litter located on such owners property which is prohibited by this section. The occupier of any property shall be deemed agent of the property owner for purposes of this section. Notice shall be by registered mail or personal service in the same manner as civil process in District Court, and if by mail, shall be addressed to said owner or owners agent at their last known address. If sent by mail, and returned because of inability to make delivery thereof, the City Administrator shall make a reasonable attempt to deliver the same by personal service. The city shall not be required to furnish notice by personal service outside the state.

(2) *City removal*. Upon failure, neglect, or refusal of any owner or agent so notified, to properly dispose of litter as prohibited by this section within 30 days after receipt of written notice cited above, or within 30 days after the date the same is returned to the city because of inability to make delivery or personal service thereof, the City Administrator or Administrator's duly authorized agent is hereby authorized and empowered to order the removal and disposal of such litter and pay therefor with city funds.

(3) *Right to hearing*. At any time prior to city removal of litter from private property, the owner, or owner's agent, may submit a written request for a hearing before the Council to show cause why the litter should not be removed from said property as required by this section. The Council shall hear all relevant testimony, receive all evidence bearing upon the question, and thereafter make findings for or against the proposed removal. If the owner prevails, all proceedings hereunder arising from said incident shall terminate and be dismissed by the city. If a violation of this section is found by the Council, the removal shall be ordered immediately pursuant to division (B) above.

(4) *Cost certified to taxes*. When the city has effected the removal of such litter, or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 8% per annum from the date of the completion of the work, if not paid by such owner prior to 30 days following such removal, shall be charged as a lien upon the real estate affected and the same certified by the City Administrator to the County Auditor as a special assessment for collection with regular municipal taxes in the year following such certification. Such assessment shall constitute a lien against said real estate and shall be collected in the manner provided by law for the collection of special assessments. Such certified assessment shall constitute prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily completed.

(2013 Code, § 10.05) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.36 DANGEROUS WEAPONS AND ARTICLES.

(A) *Acts prohibited*. It is unlawful for any person to:

(1) Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another;

(2) Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another;

(3) Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club;

(4) Manufacture, transfer, or possess metal knuckles or a switch blade knife opening automatically;

(5) Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another;

(6) Permit, as a parent or guardian, any child under 14 years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or

(7) (a) Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star or nunchaku;

(b) For the purposes of this division (A)(7), a ***THROWING STAR*** means a circular metallic device with any number of points projecting from the edge; and

(c) A ***NUNCHAKU*** means a pair of wood sticks or metallic rods separated by chain links attached to 1 end of each such stick or rod.

(B) *Exception for division (A) above*. Nothing in division (A) above shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

(C) *Discharge of firearms and explosives*. It is unlawful for any person to fire or discharge any cannon, gun, pistol, or other firearm, firecracker, sky rocket, or other fireworks, air gun, air rifle, or other similar device commonly referred to as a BB gun.

(D) *Exception for division (C) above*.

(1) Nothing in division (C) above shall apply to a display of fireworks by an organization or group of organizations which has obtained a permit under the Fire Code, or to a police officer in the discharge of the officers duty, or to a person in the lawful defense of their person or family. This section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

(2) Nothing in division (C) above shall apply to consumer fireworks as defined in § 130.11(B).

(3) Nothing in division (C) above shall apply to hunting or target shooting if the following provisions are observed:

(a) Only BB guns, shot guns with shot shells, or bows and arrows are used;

(b) Shooting is done on contiguous tracts of at least 40 acres;

(c) The person shooting either owns or has the written permission of the owner of the tract;

(d) The gun is not discharged within 500 feet of a building or public road;

(e) The area within which the shooting is done lies south of Vierling Drive extended easterly and County State Aid Highway No. 16 and east of Spencer Street and County Road No. 79 and also an area within which said shooting is done lies in Section 1, Township 115, Range 23, of the county, lying northerly of the Minnesota River and westerly of U.S. Highway No.169; and

(f) Hunting or shooting with a bow and arrow or shotgun using shot shells only within the National Wildlife Refuge east of Valleyfair to the easterly city limits and north of Highway 101.

(4) Nothing in division (C) above section shall apply to the discharge of firearms in such areas, and under such conditions of supervision, as the Council may specifically permit.

(E) *Possession, use, and sale of fireworks*. It is unlawful for any person to sell, possess, or have in possession for the purpose of safe, except as allowed in division (D) above, any firecrackers, sky rockets, or other fireworks. It is unlawful for any person to use consumer fireworks on public property.

(F) *Exposure of unused container*. It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges, or latches.

(G) *Use of bow and arrow*. Except as otherwise provided in this section, it is unlawful for any person to shoot a bow and arrow except in the physical education program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

(H) *Model rockets*. It is unlawful for any person to fire or set off model rockets except under supervision and required approval of the Council.

(I) *Fireworks defined*. For purposes of this section, the term ***FIREWORKS*** means any substance or combination of substances or article prepared for the purpose of producing a visible or an 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, dayglo bombs, or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablet or other device containing any explosive substance and commonly used as fireworks. The term ***FIREWORKS*** shall not include toy pistols, toy guns, in which paper caps containing 25 hundredths grains or less of explosive compound are used, toy pistol caps which contain less than 20 hundredths grains of explosive mixture, and any articles that meet the definition of "consumer fireworks" under § 130.11.

(2013 Code, § 10.20) (Ord. 1, passed 4-1-1978; Ord. 182, passed 8-29-1985; Ord. 207, passed 10-16-1986; Ord. 223, passed 8-13-1987; Ord. 314, passed 7-25-1991; Ord. 343, passed 10-29-1992; Ord. 629, passed 6-12-2002; Ord. 649, passed 12-26-2002; Ord. 839, passed 12-16-2010) Penalty, see § 130.99

§ 130.37 FALSELY REPORTING CRIME OR ORDINANCE VIOLATION.

It is unlawful for any person to inform a law officer that a crime or ordinance violation has been committed, knowing that it is false and intending that the officer shall act in reliance upon it.

(2013 Code, § 10.23) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.38 UNLAWFUL ASSEMBLY; PRESENCE AT UNLAWFUL ASSEMBLY.

(A) *Unlawful assembly*. It is unlawful for 3 or more persons to assemble, and each participant shall be guilty of unlawful assembly, if the assembly is with intent to commit any unlawful act by force.

(B) *Presence at unlawful assembly*. It is unlawful for any person to be present at the place of an unlawful assembly and refuse to leave when so directed by a law enforcement officer.

(2013 Code, § 10.25) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.39 CURFEW.

(A) *Purpose.* The curfew for minors established by this section is maintained for 4 primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minors household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Prohibited acts.*

(1) It is unlawful for a juvenile under the age of 12 to be present in any public place or establishment within the city:

(a) Any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 a.m. of the following day; or

(b) Anytime between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(2) It is unlawful for a juvenile from the ages of 12, 13, or 14 to be present in any public place or establishment within the city:

(a) Any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day; or

(b) Any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(3) It is unlawful for a juvenile, ages 15, 16, or 17 to be present in any public place or establishment within the city:

(a) Anytime between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day; or

(b) Any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed

by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minors residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minors presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minors parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next- door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minors presence; and

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor, or unless 1 of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Affirmative defense*. A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.

Penalty, see § 130.99

§ 130.40 CONCEALING IDENTITY.

It is unlawful for any person to conceal their identity in a public place by means of a robe, mask, or other disguise, unless incidental

to amusement or entertainment.

(2013 Code, § 10.32) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.41 ABANDONING A MOTOR VEHICLE.

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this section, a "motor vehicle" is as defined in M.S. Ch. 169, as it may be amended from time to time. For the purpose of this section, an ***ABANDONED MOTOR VEHICLE*** is defined as in the section of this code of ordinances relating to disposal of abandoned motor vehicles.

(2013 Code, § 10.33) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.42 INTERFERENCE WITH AMBULANCE SERVICE.

It is unlawful for any person to give, or make or cause to be made a call for ambulance service without probable cause or to neglect to obey any reasonable order of a driver or attendants at an ambulance call or to interfere with the ambulance services discharge of its duties.

(2013 Code, § 10.34) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.43 COERCION.

It is unlawful for any person to orally or in writing make any of the following threats and thereby cause another against their will to do any act or forbear doing a lawful act:

(A) A threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another;

(B) A threat to unlawfully inflict damage to the property of the person threatened or another;

(C) A threat to unlawfully injure a trade, business, profession, or calling;

(D) A threat to expose a secret or deformity, publish, a defamatory statement, or otherwise to expose any person to disgrace or ridicule; or

(E) A threat to make or cause to be made a criminal charge whether true or false; provided, that a warning of the consequence of a future violation of law given in good faith by a magistrate, police officer, or prosecuting attorney to any person shall not be deemed a threat for the purpose of this section.

(2013 Code, § 10.51) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

§ 130.44 INTERFERING WITH RELIGIOUS OBSERVANCE.

It is unlawful for any person, by threats or violence, intentionally to prevent another person from performing any lawful act enjoined upon them, or recommended to them by the religion which that person professes.

(2013 Code, § 10.52) (Ord. 1, passed 4-1-1978; Ord. 337, passed 7-23-1992) Penalty, see § 130.99

§ 130.45 NOISE ELIMINATION AND NOISE PREVENTION.

(A) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any other word or phrase used in this section, and defined in regulations of the State Pollution Control section, NPC-1 and NPC-4, has the meaning given in those regulations.

AIR CIRCULATION DEVICE. A mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.

L10. The sound level, expressed in decibels (DBA), which is exceeded 10% of the time for a 1-hour period, as measured by 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 Noise Control Officer.

L50. The sound level similarly expressed and measured which is exceeded 50% of the time for a 1-hour period.

PERSON. An individual, firm, partnership, corporation, trustee, association, 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.

(B) *Noises prohibited*.

(1) *General prohibition*. It is unlawful for any person to make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any persons or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of divisions (B)(2) through (B)(12) below.

(2) *Motor vehicles*. It is unlawful for any person to operate a motor vehicle in the city in violation of the motor vehicle noise limits of the State Pollution Control Agency (NPC 4 and 6MAR par. 4, 2004).

(3) *Horns, audible signaling devices, and the like*. It is unlawful for any person to sound any signaling device on any vehicle except as a warning of danger (M.S. § 169.68, as it may be amended from time to time).

(4) *Exhaust*. It is unlawful for any person to discharge the exhaust, or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(5) *Defective vehicles or loads*. It is unlawful for any person to use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(6) *Loading, unloading, or unpacking*. It is unlawful for any person to create loud and excessive noise in loading, unloading, or unpacking any vehicle.

(7) *Radios, phonographs, paging systems, and the like*. It is unlawful for any person to use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(8) *Participation in noisy parties or gatherings*. It is unlawful for any person to participate in any party or other gathering of people giving rise to noise, disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse 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.

(9) *Loudspeakers, amplifiers for advertising, and the like*. It is unlawful for any person to operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

(10) *Animals*. It is unlawful for any person to keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.

(11) *Schools, churches, hospitals, and the like*. It is unlawful for any person to create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

(12) *Engine retarding braking systems*. The City Council finds that the use of engine retarding braking systems or similar methods such as "transmission braking" or "dynamic braking" within the city creates unusual and excessive noise that unreasonably

disturbs and annoys residents. A prohibition on the use of such devices and methods is necessary to protect the health, safety, and public welfare. It is unlawful for the operator of any vehicle to intentionally use an engine retarding braking system on any public highway, street, parking lot, or alley within the city. For purposes of this provision the term ***ENGINE RETARDING BRAKING SYSTEM*** means a transmission brake or other similar engine retarding braking system whereby rapid downshifting of a vehicles engine alters the normal compression of the engine or a compression release device is used in lieu of applying a vehicles wheel brakes, causing loud noises to emit from the vehicles engine and exhaust system.

(C) *Hourly restriction on certain operations*.

(1) *Recreation vehicles*. It is unlawful for any person, between the hours of 11:00 p.m. and 7:00 a.m., to drive or operate any minibike, snowmobile, or other recreational vehicle not licensed for travel on public highways.

(2) *Domestic power equipment*. It is unlawful for any person to operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m., on any weekday or between the hours of 9:00 a.m. and 9:00 p.m., on any weekend or holiday. Snow removal equipment is exempt from this provision.

(3) *Refuse hauling*. It is unlawful for any person to collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(4) *Construction activities*. It is unlawful for any person to engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m., on any weekday or between the hours of 9:00 a.m. and 9:00 p.m., on any weekend or holiday. Upon timely application being made and the necessity therefor being established, the Council may suspend the operation of this division (C) for a specific purpose at a specific location and for a specific length of time by Council action and by giving public notice of the nature and limits of such suspension.

(D) *Receiving land use standards*.

(1) (a) *Maximum noise levels by receiving land use districts*. It is unlawful for any person to 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 use category specified when measured at or within the property line of the receiving land use.

Table 1

Sound Levels by Receiving Land Use Districts

	Day 7:00 a.m. to 10:00 p.m.		***Night 10:00 a.m. to 7:00 p.m.***	
Land Use Districts	L10	L50	L10	L50
Commercial	70	65	70	65
Industrial	70	75	80	75
Residential	65	60	80	75

(b) The limits of the most restrictive district shall apply at the boundaries between different land use categories. The determination of land use shall be by its zoned designation.

(2) *Exemptions*. The levels prescribed in division (D)(1)(a) do not apply to noise originating on public streets and alleys but such noise shall be subject to other applicable divisions of this section.

(E) *Air circulation devices*. It is unlawful for any person to permanently install or place any air circulation device, except a window air conditioning unit, in any outdoor location until the Noise Control Officer determines that the device in that location will

comply with the noise level standards prescribed in division (D)(1)(a) above.

(F) *Exception for emergency work*. Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this section for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the Noise Control Officer of the need to initiate such work or, if the work is commenced during non-business hours of the city, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

(G) *Powers and duties of Noise Control Officer*. The Noise Control Program established by this section shall be administered by the Noise Control Officer. Until otherwise provided by provisions of this code of ordinances, the Chief of Police or Chief's designee shall serve as the Noise Control Officer.

(H) *Enforcement*. The Police Department or Building Inspector, whenever applicable, shall enforce the provisions of this section. The Police Department or its members may inspect private premises other than private residences and shall make all reasonable efforts to prevent violations of this section.

(I) *Testing procedures*. The Noise Control Officer shall adopt guidelines establishing the test procedures and instrumentation to be used in enforcing the provisions of division (D)(1) above imposing noise standards. A copy of such guidelines shall be kept on file in the office of the Noise Control Officer and shall be available to the public for reference during office hours.

(J) *Other powers and duties*. The Noise Control Officer shall exercise such other powers and perform such other duties as are reasonable and necessary to enforce this section.

(K) *Enforcement*. When the Noise Control Officer determines that a noise exceeds the maximum sound level permitted under division (A)(1) above, the Noise Control Officer shall give written notice of the violation to the owner or occupant of the premises where the noise originates and order such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of this section.

(2013 Code, § 10.60) (Ord. 108, passed 11-18-1982; Ord. 145, passed 5-24-1984; Ord. 337, passed 7-23-1992; Ord. 750, passed 3-30-2006)

§ 130.46 TRESPASS UPON LAND FOR THE PURPOSE OF USING CONTROLLED SUBSTANCES.

(A) *Unlawful acts*. It is unlawful for any person to do any of the following:

(1) *Trespass by individual*. The uninvited entry on to land of another for the purpose of using controlled substances;

(2) *Trespass by motor vehicles*. The uninvited entry by motor vehicle on the land of another to facilitate the use of controlled substances; and

(3) *Permitting trespass by motor vehicle*. As owner of a motor vehicle, to allow the uninvited entry by motor vehicles on the land of another to facilitate the use of controlled substances.

(B) *Uninvited entry defined*. An entry is uninvited if the person on the land cannot produce written or oral permission from the landowner or lessee for the entry, or if the landowner or lessee is not present and consenting to the entry.

(C) *Determination of purpose of entry*. To determine the purpose of an uninvited entry of a person or motor vehicle onto the land of another, the factors to be considered include, without limitation, the following:

(1) Time of day;

(2) Presence of paraphernalia containing identifiable residues of a controlled substance;

(3) Noise level;

(4) Lighting;

(5) Identified physiological responses; and

(6) Conduct of persons in the presence of a peace officer.

(D) *Defenses*. If the trier of fact finds that the landowner or lessee expressly consented, endorsed, or ratified the entry onto land, such a finding shall constitute an absolute defense to charges under this section.

(E) *Owner; lessee liability*. A landowner or lessee who expressly consents to, endorses, or ratifies an entry onto land is not presumed to be in control of the persons gathered on the land, nor is the landowner or lessee presumed to have knowledge or knowledge of an unlawful act merely because of express consent, endorsement or ratification.

(2013 Code, § 10.62) (Ord. 172, passed 7-16-1985; Ord. 201, passed 7-17-1986) Penalty, see § 130.99

§ 130.47 PARADES AND RACES.

(A) *Purpose*. The provisions of this section are designed to regulate the time, place and manner in which a parade or race is conducted, in order to protect the safety and welfare of participants and non-participants, and to minimize interference with the customary flow of pedestrian and vehicular traffic on the streets, sidewalks, and other public places. In particular, parades and races shall be limited to times and places which can be provided the necessary level of police protection to allow the parade or race to occur safely.

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

APPLICANT. Any authorized representative of the sponsor who files a request for a parade or race permit.

CHIEF. The Chief of Police of the City of Shakopee, Minnesota, or the Chief's designated representative.

CONTROLLED INTERSECTION. Any meeting of 2 or more streets where traffic from 1 or more directions faces traffic lights, a stop sign, a yield sign, or other traffic-control device.

PARADE. Any parade, fun run, bike-a-thon, walk-a-thon, march, ceremony, pageant, procession (except a funeral procession), or similar activity involving 10 or more participants who are not competing to complete the route in a short time.

PARTICIPANT. Any person actively engaged as a member of a parade or race, either as an individual, or as part of a parade unit.

POLICE OFFICER IN CHARGE. The Shift Commander, Acting Shift Commander, or other individual designated by the Chief.

RACE. Any race, run-a-thon, marathon, or similar activity involving 10 or more participants who are competing to complete the route in the shortest possible time.

ROUTE. The series of streets, sidewalks, grass areas, or other surfaces traveled along or across during the duration of the parade or race.

SPONSOR. The person who provides the main financial, administrative, organizational, or other support for a parade or race, and who accepts responsibility for the conduct of the parade or race.

UNIT. Any float, car, band, or other distinct item, person, or group of items or people moving together as a part of the parade.

(C) *Permit*.

(1) No parade or race shall be allowed within the city limits without a permit, which permit shall be conditioned upon compliance with the following regulations. The permit application shall be on a form approved by the Chief and must specify the route and provide such other information as required by the Chief.

(2) The following application shall be submitted in writing to the Police Department at least 30 days prior to the parade or race:

(a) An application for a permit to hold a parade which is expected to impede the normal flow of traffic for over 45 minutes; and

(b) An application for a permit to hold a race involving crossing more than 4 controlled intersections where the route requires or anticipates that the participants shall not obey the traffic-control devices.

(3) All other applications must be submitted in writing to the Police Department at least 10 days prior to the parade or race.

(4) The Chief shall act upon timely-filled applications in writing by 3 days (72 hours) before the parade or race is scheduled to occur; and

(5) The use of the streets and provision of police officer protection shall be on a first-come, first-served basis.

(D) *Standards for issuance*. The Chief shall issue a permit when, from a consideration of the application and from such other information as may otherwise be obtained, the Chief finds that:

(1) The conduct of the parade or race will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(2) The conduct of the parade or race will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

(3) The concentration of persons, animals, and vehicles at assembly points of the parade or race will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;

(4) The conduct of such parade or race will not interfere with the movement of firefighting equipment en route to a fire;

(5) The conduct of the parade or race is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create a disturbance;

(6) The parade or race is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and

(7) The parade is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

(E) *Equipment*.

(1) A parade or race applicant or sponsor must obtain and use such barricades and fluorescent safety vests as are determined by the Chief to be reasonably necessary to protect the participants, non-participants, and traffic along the route.

(2) The police officer in charge may cancel the parade or race if the applicant and sponsor fail to substantially comply with the requirement of providing safety equipment.

(F) *Time*. Parades and races may be held only between 1/2 hour before sunrise and 1/2 hour after sunset.

(G) *Conduct*.

(1) The parade or race shall be coordinated with the police officer in charge. The parade or race participants must obey all lawful orders of police officers.

(2) Any motor vehicle driven as a part of a parade or race shall drive as near to the right-hand edge of the street as practical and shall follow any foregoing parade or race units or participants as closely as is practical and safe; except this division (G) shall not apply when an entire road is blocked for the parade or race.

(3) (a) The sponsor of a parade or race agrees to clean up any and all debris and damage which may be done.

(b) In the event such cleanup is not undertaken promptly, the city reserves the right to do the cleaning itself, and to charge the sponsor for the actual time and expense incurred in the cleaning. This charge shall be a private debt against the sponsor.

(4) The City Administrator may require insurance, an indemnification contract, and/or a bond in such instances where deemed necessary to protect the public interest.

(5) The City Administrator shall have the authority to promulgate rules and regulations under this section, which rules and regulations shall be maintained on file with the City Clerk.

(H) *Safety*. The following conduct is prohibited as posing a significant threat to the public health, safety, and welfare:

(1) Operation of a motor vehicle by an unlicensed driver;

(2) Consumption of an alcoholic beverage while participating in a parade or race, whether as a driver, rider on a unit, member of a unit, or otherwise;

(3) Operation of a motor vehicle in a careless or reckless manner. This includes raising 1 wheel of a motorcycle off the ground to perform a "wheelie";

(4) Throwing candy, balloons, or other items which may entice children to run into the path of the parade or race; and

(5) Discharge of fireworks, firearms, or other weapons;

(2013 Code, § 10.63) (Ord. 357, passed 7-22-1993) Penalty, see § 130.99

§ 130.48 DISORDERLY HOUSE OR PLACE OF PUBLIC RESORT.

It is unlawful for any person:

(A) To keep a disorderly house or place of public resort, whereby the peace, comfort, or decency of a neighborhood is habitually disturbed; or

(B) Being the owner or in control of any premises, intentionally permit them to be so used.

(2013 Code, § 10.72) (Ord. 1, passed 4-1-1978) Penalty, see § 130.99

OFFENSES AGAINST PUBLIC MORALS

§ 130.65 INDECENT CONDUCT.

(A) *Sexual conduct*. In any place open to the public, no person shall engage in, offer, or attempt to engage in sexual conduct as defined in § 114.23.

(B) *Indecent solicitation*. In any place open to the public, no person shall engage in or solicit another to engage in conduct that involves the touching of the genitals, buttocks, or female breast for the purpose of sexual arousal, gratification, annoyance, or offense.

(C) *Indecent behavior*. In any place open to the public, no person shall engage in, offer or attempt to engage in, or congregate because of behavior, whether by words or acts, of a nature to outrage the sense of public decency.

(2013 Code, § 10.49) (Ord. 451, passed 5-21-1996) Penalty, see § 130.99

§ 130.66 GAMBLING.

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

LAWFUL GAMBLING, ***LAWFUL PURPOSES,*** and ***LICENSED ORGANIZATION.*** As set forth in M.S. Ch. 349, as it may be amended from time to time.

TRADE AREA. The City of Shakopee and each city contiguous to the City of Shakopee.

(B) *Lawful purposes*. Each licensed organization conducting lawful gambling within the city shall expend 75% of its expenditures for lawful purposes on lawful purposes conducted or located within the city's trade area.

(C) *Exceptions*.

(1) Any organization holding a state organization gambling license may conduct not more than 1 raffle in any given calendar year if it is held in conjunction with a banquet and/or a dance, without complying with division (B) above.

(2) Any organization exempt under M.S. § 349.166, as it may be amended from time to time, may conduct not more than 5 raffles in any given calendar year, without complying with division (B) above, if, prior to selling any raffle tickets, the organization submits proof satisfactory to the city that more than 75% of the raffle tickets are reasonably expected to be sold to nonresidents of the city. Proof may include evidence that the tickets shall be sold state-wide, at a facility with a large regional attraction, or to a set of people not generally found in the city (e.g., members of an organization of whom fewer than 25% are city residents).

(D) *Application*. An organization seeking to obtain a state gambling premises permit shall file in the office of the City Clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application to be filed with the State Board, prior to Council approving a premise permit.

(E) *Records and reports*. Organizations with a premises permit in the city shall file with the City Clerk 1 copy of all records and reports required to be filed with the State Board, pursuant to state law, rules, and regulations. Such records and reports shall be filed on or before the day they are required to be filed with the State board.

(F) *Location restriction*. Lawful gambling for which a license is required from the State Gambling Control Board may only be conducted at a location for which an on-sale intoxicating liquor license or on-sale club license has been issued, and pull-tab dispensing devices may be used at such locations. Any organization that is exempt from obtaining a state license in order to conduct lawful gambling is exempt from this location requirement, but any such organization must not use pull-tab dispensing devices.

(2013 Code, § 10.61) (Ord. 182, passed 8-29-1985; Ord. 189, passed 3-13-1986; Ord. 297, passed 11-30-1990; Ord. 345, passed 12-12-1992; Ord. 663, passed 4-15-2003) Penalty, see § 130.99

§ 130.67 ADULT ESTABLISHMENTS.

(A) *Findings and purpose*.

(1) Studies conducted by the State Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Minnetonka, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks.

(2) Based on these studies and findings, the City Council concludes the following.

(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 geographic, licensing, 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) M.S. § 462.357, as it may be amended from time to time, 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.

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

ADULT ESTABLISHMENT. A business where sexually-oriented materials are sold, bartered, distributed, leased, or furnished and which meet any of the following criteria:

(a) A business where sexually-oriented materials are provided for use, consumption, enjoyment, or entertainment on the business premises;

(b) A business that is distinguished or characterized by an emphasis on the description or display of specified sexual activities;

(c) A business that is distinguished or characterized by an emphasis on the description or display of specified anatomical areas;

(d) An adult cabaret as defined in division (G) below; and

(e) A business providing sexually-oriented materials only for off-site use, consumption, enjoyment, or entertainment if the portion of the business used for such purpose exceeds 20% of the retail floor area of the business or 500 square feet, whichever is less. The phrase "retail floor area" does not include storerooms, stock areas, bathrooms, basements, attics, or any portion of the business not open to the public.

SEXUALLY-ORIENTED MATERIALS. Visual, printed, or aural materials, objects, or devices that are distinguished or characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities.

SPECIFIED ANATOMICAL AREAS.

(a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(a) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; analingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism; sapphism; or zooerastia;

(b) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(d) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(e) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually-revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

(f) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or

(g) Human excretion, urination, menstruation, or vaginal or anal irrigation.

(C) *Compliance with zoning restrictions*. Adult establishments may be located only as allowed by § 151.046.

(D) *Location of adult establishments*.

(1) No person shall operate an adult establishment on property, any part of which is within the area circumscribed by a circle which has a radius of 750 feet from any of the uses listed below. Distances shall be measured by following a straight fine, without regard to intervening structures or objects, between the closest points on the property lines of the 2 uses.

(2) This distance requirement applies to the following uses:

(a) Property developed or zoned for residential uses;

(b) Property located in a major recreation zone;

(c) Property frequented by children or designed as a family destination, such as a day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;

(d) Premises licensed under Ch. 114, relating to liquor, beer, and wine licensing;

(e) A street with an 10,000 average daily traffic count, as noted on the most recent Municipal State Aid System Traffic Volume Map from the State Department of Transportation; and

(f) Another adult establishment.

(E) *Operation of business*.

(1) Both the owner of an adult establishment and the manager of the business shall be responsible for the conduct of their employees and for compliance with this section.

(2) No owner or manager of an adult establishment shall employ a person under the age of 18.

(3) No owner, manager, or employee of an adult establishment shall have been convicted of violating this section 3 or more times within 24 months.

(F) *Restrictions and regulations of adult establishments*. An adult establishment is subject to the following restrictions and regulations.

(1) No owner, manager, or employee shall allow any sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

(2) No owner, manager, or employee of an adult establishment shall have been convicted of a sex crime, as identified in M.S. §§

609.293 through 609.352, 609.746 through 609.749, and 609.79, or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse.

(3) The business owner, manager, or employee shall ensure that no person under the age of 18 enters the business.

(4) No owner, manager, or employee shall allow any person under the age of 18 to have access to sexually-oriented materials, whether by sight, purchase, touch, or any other means.

(5) No owner, manager, or employee may sell or display for sale any sexually-oriented materials except in original unopened packages.

(6) (a) Each business shall display a sign on its main entrance door which reads: "This business sells sexually-oriented material or entertainment. Persons under the age of 18 are prohibited from entering".

(b) The sign letters shall be a minimum of 2 inches high.

(7) No business may have a license under Ch. 114, and no alcoholic beverages may be consumed in the business.

(8) No business shall be open except between 7:00 a.m. and 10:00 p.m., Monday through Saturday.

(G) *Adult cabarets*.

(1) An ***ADULT CABARET*** is a business that provides dancing or other live entertainment distinguished or characterized by an emphasis on the presentation, display, or depiction of specified sexual activities or specified anatomical areas, or the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desires.

(2) Any adult cabaret operating in the city must comply with the following conditions:

(a) An owner, operator, or manager of an adult cabaret may not allow any dancer or other live entertainer to display specified anatomical areas or to display or perform specified sexual activities on the premises of the adult cabaret;

(b) A dancer, live entertainer, performer, patron, or any other person may not display specified anatomical areas in an adult cabaret;

(c) The owner, operator, or manager of an adult cabaret must provide the following information to the city concerning any person who dances or performs live entertainment at the adult cabaret: The persons name; home address; home telephone number; date of birth; and any aliases;

(d) A dancer, live entertainer, or performer may not be under 18 years old;

(e) Dancing or live entertainment must occur on a platform intended for that purpose and that is raised at least 2 feet from the level of the floor;

(f) A dancer or performer may not perform a dance or live entertainment closer then 10 feet from any patron;

(g) A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;

(h) A patron may not pay or give any gratuity to any dancer or performer; and

(i) A dancer or performer may not solicit or accept any pay or gratuity from any patron.

(2013 Code, § 10.77) (Ord. 511, passed 3-5-1998) Penalty, see § 130.99

§ 130.68 PREMISES CONDUCIVE TO HIGH-RISK SEXUAL CONDUCT.

(A) *Findings and purpose*. The City Council makes the following findings regarding the need to regulate commercial premises, buildings, and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health.

(1) The experience of other cities establishes that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of such premises, buildings, or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings, or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating such commercial premises, buildings, and structures.

(2) The experience of other cities where such commercial premises, buildings, and structures are present indicates that the risk of spreading the sexually-transmittable disease of Acquired Immune Deficiency Syndrome (AIDS) is increased by the presence of such premises, buildings, and structures, because the design or use of such premises, buildings, and structures, or parts thereof can facilitate high-risk sexual conduct.

(3) Medical publications of the Center for Disease Control of the U.S. Department of Health and Human Services indicate that the sexually-transmittable disease of AIDS is currently irreversible and uniformly fatal. Medical research has further established that the risk factors for obtaining or spreading AIDS are associated with high risk sexual conduct.

(4) Certain commercial premises, buildings, and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings, and structures.

(5) The public health, safety, morals, and general welfare will be promoted by the city adopting regulations governing commercial premises, buildings, and structures conducive to high-risk sexual conduct.

(6) The purpose of this section is to prescribe regulations governing commercial premises, buildings, and structures that are conducive, by virtue of design and use, to high-risk sexual conduct which can result in the spread of sexually-transmitted diseases to persons frequenting such premises, buildings, and structures.

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

BOOTHS, ***STALLS***, or ***PARTITIONED PORTIONS OF A ROOM OR INDIVIDUAL ROOM.*** Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct, or enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

DOORS, ***CURTAINS***, or ***PORTAL PARTITIONS.*** Full, complete, non-transparent closure devices through which 1 cannot see or view activity taking place within the enclosure.

HAZARDOUS SITE. Any commercial premises, building or structure, or any part thereof, which is a site of high-risk sexual conduct as defined herein.

HIGH-RISK SEXUAL CONDUCT.

(a) Fellatio;

(b) Anal intercourse; or

(c) Vaginal intercourse with persons who engage in sexual acts in exchange for money.

OPEN TO AN ADJACENT PUBLIC ROOM SO THAT THE AREA INSIDE IS VISIBLE TO PERSONS IN THE ADJACENT PUBLIC ROOM. Either the absence of any entire "door, curtain, or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass, or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

PUBLIC HEALTH OFFICIAL. An agent or employee of the city, county, or state charged with the enforcement of the state or local health laws.

(C) *Public health regulations*. A commercial building, structure, premises, or part thereof, or facilities therein may not be constructed, used, designed, or operated in the city for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct.

(D) *Prohibitions*. It is unlawful to own, operate, manage, rent, lease, or exercise control of a commercial building, structure, premises, or portion or part thereof in the city, that contains:

(1) Partitions between subdivisions of a room portion or part of a building, structure, or premises having an aperture which is designed or constructed to facilitate sexual activity, including, but not limited to, vaginal intercourse, and intercourse, or fellatio, between persons on either side of the partition; and

(2) "Booths, stalls, or partitioned portions of a room or individual room" as defined herein which have "doors, curtains or portal partitions" as defined herein unless the booths, stalls, or partitioned portions of a room or individual room have at least 1 side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls, or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion picture or other forms of entertainment are visible from the adjacent public rooms, but such lighting need not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

(E) *Exceptions*. The regulations set forth in this section do not apply to premises, buildings, or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

(F) *Health enforcement powers*.

(1) In exercising powers conferred by this or any other section of this code of ordinances relating to communicable diseases, the Public Health Official is to be guided by the most recent instructions, opinions, and guidelines of the Center for Disease Control of the U.S. Department of Health and Human Services that relate to the spread of infectious diseases. In order to ascertain the source of infection and reduce its spread, the Public Health Official, and persons under the Public Health Official's direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure, or premises, or any part thereof, that may be a site of high-risk sexual conduct.

(2) If the Public Health Official determines that a hazardous site as defined herein exists, the Public Health Official will declare it to be a public health hazard and public health nuisance and will:

(a) Notify the manager, owner, or tenant of the hazardous site that the Public Health Official has reasonable belief that the premises, building, or structure is a hazardous site as defined herein;

(b) Issue 2 written warnings at least 10 days apart to the manager, owner, or tenant of the premises stating the specific reasons for the Public Health Officials opinion that the premises, building, or structure is a hazardous site as defined herein; and

(c) Once such notices and warnings have been issued, the Public Health Official must proceed as follows:

1. After the manager, owner, or tenant of the premises has been notified in writing as to the basis of the Public Health Official's determination, the manager, owner, or tenant will have ten days from the date of the last warning to request a hearing before the Public Health Official or the Public Health Official's appointee for the determination as to the existence of such hazardous site. If the manager, owner, or tenant of the premises does not request a hearing within 10 days of the date of the last warning notice, the Public Health Official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the Public Health Official will cause orders to be issued to the manager, owner, or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent high-risk sexual conduct form taking place within the premises.

2. If the manager, owner, or tenant of the premises requests a hearing, the hearing will be held before the Public Health Official or the Public Health Official's appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the Public Health Official or the Public Health Official's appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the Public Health Official or the Public Health Official's appointee makes a determination that the premises constitute a hazardous site, the Public Health Official will then issue orders to the manager, owner, or tenant of the premises to take corrective measures to prevent high-risk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.

3. If, within 30 days after issuance of the orders to the manager, owner, or tenant of the hazardous site, the Public Health Official determines that such corrective measures have not been undertaken, the Public Health Official may:

a. Order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or

b. Secure a court order for the closure of the premises constituting the hazardous site until the premises, building, or structure is in compliance with all provisions of this code of ordinances.

(2013 Code, § 10.78) (Ord. 511, passed 3-5-1998) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) (1) Any person who violates any provision of this chapter for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty that may be imposed for any crime that is a misdemeanor under this code of ordinances, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both. Notwithstanding this division (A), the city in its discretion, may choose to prosecute any violation of this chapter as a petty misdemeanor, in which case, the penalty that may be imposed shall be a sentence of a fine of not more than $300.

(2) The costs of prosecution may be added to the fine. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(2013 Code, § 10.99)

(B) Any violation of any provision of § 130.06 shall be punished as a misdemeanor.

(2013 Code, § 10.29)

(C) A violation of any of the conditions of a permit under § 130.11 shall be cause for revocation of the permit. Sales without a permit or sales after the revocation of a permit shall be punishable as a misdemeanor.

(2013 Code, § 10.38)

(D) Any violation of § 130.45 involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, the violator shall be punished by a fine of not to exceed $100, plus the costs of prosecution. Every person who violates any other provision of § 130.45 is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than $500, plus the costs of prosecution. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

(2013 Code, § 10.60)

(E) A violation of any condition of a permit under § 130.47 shall be cause for revocation of the permit, Any parade or race conducted without a permit is in violation of this code of ordinances; and anyone responsible for organizing, sponsoring, or conducting such a parade or race will be held punishable under this code of ordinances.

(2013 Code, § 10.63)

(F) A person violating any provision of § 130.68, or any person who removes, destroys, or defaces warnings posted on premises by the Public Health Official pursuant to this chapter shall be guilty of a misdemeanor.

(2013 Code, § 10.78)

(Ord. 1, passed 4-1-1978; Ord. 108, passed 11-18-1982; Ord. 145, passed 5-24-1984; Ord. 337, passed 7-23-1992; Ord. 357, passed 7-22-1993; Ord. 408, passed 3-16-1995; Ord. 511, passed 3-5-1998; Ord. 562, passed 11-11-1999; Ord. 581, passed 10-5-2000; Ord. 599, passed 6-14-2001; Ord. 629, passed 6-13-2002; Ord. 649, passed 12-26-2002; Ord. 693, passed 2-5-2004; Ord. 698, passed 4-15-2004; Ord. 750, passed 3-30-2006)

TITLE XV: LAND USAGE

Chapter

CHAPTER 150: SUBDIVISIONS

Section

GENERAL PROVISIONS

§ 150.01 TITLE, PURPOSE, AND INTERPRETATION.

(A) *Title*. This chapter shall be known as, and may be referred to as the "Subdivision Regulations" or "Subdivision Ordinance". When referred to herein it shall be known as "this chapter".

(B) *Purpose*. This chapter is enacted for the following purposes:

(1) To protect and promote the public health, safety, and general welfare of the city;

(2) To provide for the orderly, economic, and safe development of land in accordance with the city's comprehensive plan;

(3) To ensure adequate provision of transportation, sanitary sewers, water, storm drainage, schools, parks, playgrounds, and other public services and facilities;

(4) To promote the availability of housing affordable to persons and families of all income levels; and

(5) To provide uniform application and review processes.

(C) *Scope*.

(1) *General application*. From the effective date of this chapter, the subdivision of all land within the city shall take place in conformance with the provisions of this chapter, except as provided below. The establishment of new land boundaries by a registered land survey is considered the subdivision of land and must be in conformance with the provisions of this chapter.

(2) *Optional subdivisions*.

(a) Certain divisions of land may be made without following the provisions of this chapter; however, the property owner may elect to follow this chapter in order to obtain the benefits provided herein.

(b) This option is available to the following divisions of land:

1. Division of 1 parcel of residentially zoned land into 2 to 4 parcels, where all resulting parcels will be a minimum of 20 acres in area and 500 feet in width;

2. Division of 1 parcel of commercially or industrially zoned land into 2 to 4 parcels, where all resulting parcels will be a minimum of 5 acres in area and 300 feet in width;

3. Divisions creating cemetery lots;

4. Divisions resulting from court orders; and

5. Divisions resulting from the adjustment of a lot line by the relocation of common boundary.

(c) If a property owner files an application for an optional subdivision, then within 10 days after receipt of the application, the Planner shall certify that the subdivision regulations are optional to that particular division.

(3) *Nonconforming subdivisions*. Any existing subdivision of land which was legally established, but is not in conformance with the provisions of this chapter shall be regarded as nonconforming and may continue in existence only for such period of time and under such conditions as is provided for in § 150.20.

(D) *Application of rules*.

(1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare, and sound land subdivision.

(2) Where any provision of this chapter is either more restrictive or less restrictive than a comparable provision imposed by any other code, ordinance, statute, or regulation of any kind, the more restrictive provision, or the provision which imposes a higher standard or requirement, shall prevail.

(3) No land shall be divided, combined, or subdivided in any manner that is not in conformity with the provisions of this chapter unless otherwise provided by this chapter.

(4) No person shall install a new street, alley, or other public improvement, except in conformity with this chapter.

(5) Words or terms defined in this chapter shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this chapter. The present tense shall include the past and future tenses.

(2013 Code, § 12.01) (Ord. 557, passed 10-14-1999)

§ 150.02 DEFINITIONS.

Definitions in Ch. 151 are adopted by reference and incorporated as part of this code of ordinances as fully as if set out at length herein. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPER. The property owner or the property owner's designee.

IMPROVEMENT. The preparation of land for and the installation of streets, street pavement, utilities, or other public facilities.

LOT. An area, parcel, or tract of land which was created or is recognized as a lot under this chapter.

NONCONFORMITY. Any lot or final plat lawfully existing on the effective date of this chapter which does not comply with all requirements of this chapter or any amendments hereto.

OVERSIZING. Constructing an improvement in a size larger than needed for a particular development in order to accommodate needs outside the boundary of the development.

PARCEL. Any piece of land.

PLANNER. The Director of Community Development or the Director's designee.

PLAT. The drawing of a subdivision prepared for filing of record pursuant to M.S. Ch. 505, as it may be amended from time to time.

SECURITY. A financial guarantee to assure that improvements are satisfactorily dedicated, constructed, installed, completed, and maintained, at no cost to the city.

STREET. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties. A ***STREET*** may be of any of the following types:

(1) ***ARTERIAL STREET.*** A street principally designed to carry motor vehicles across, into, or out of the city.

(2) ***COLLECTOR STREET.*** A street principally designed to carry motor vehicles from local streets to another ***COLLECTOR STREET*** or to an arterial street.

(3) ***LOCAL STREET.*** A street principally designed to carry motor vehicles from individual lots or parcels to a collector street.

SUBDIVISION. The separation of a parcel under single ownership into 2 or more parcels, the combination of parcels, or the separation of a parcel under single ownership into 2 or more long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets or alleys for residential, commercial, industrial, or other use.

(2013 Code, § 12.02) (Ord. 557, passed 10-14-1999)

§ 150.03 SUBDIVISION REVIEW AND REQUIREMENTS.

(A) Each subdivision shall establish the number, layout, and location of lots, blocks, and parcels to be created; location of streets, utilities, park and drainage facilities; and lands to be dedicated for public use. Furthermore, any property to be subdivided which abuts a county road or state highway must be submitted to the highway authority for review.

(B) The Highway Department shall be allowed a minimum of 30 days to conduct its review and provide comments.

(2013 Code, § 12.03) (Ord. 557, passed 10-14-1999; Ord. 617, passed 1-24-2002)

§ 150.04 CLASSIFICATION OF SUBDIVISIONS.

(A) Subdivisions are classified as minor or major.

(1) A minor subdivision may be used for making small changes in lot lines and can be approved administratively.

(2) A major subdivision is for more complex changes and requires several steps.

(B) Certain subdivisions may be made without following the provisions of this chapter, as described in § 150.01(C)(2), but the property owner may elect to follow this chapter in order to obtain the benefits provided herein.

(2013 Code, § 12.04) (Ord. 557, passed 10-14-1999)

§ 150.05 MINOR SUBDIVISIONS.

(A) *Definition*. The following are minor subdivisions that may be approved administratively:

(1) A lot is being divided into a maximum of 5 lots;

(2) A maximum of 5 lots are being combined into 4 or fewer lots; or

(3) Where common boundaries between lots are being relocated.

(B) *When prohibited*. The Planner may not approve a minor subdivision in the following situations:

(1) When the minor subdivision proposes the division of property zoned for commercial, industrial, business park, or major recreation use;

(2) Where the subdivision includes a change in existing streets, alleys, water, sanitary or storm sewer, or other public improvements;

(3) Where additional right-of-way needs to be dedicated, and the right-of-way has not previously been deeded to the city;

(4) Where easements need to be changed for the subdivision and the appropriate changes have not been made through vacation and/or deeding of easements to the city;

(5) Where new streets, utilities, or other public improvements will be needed other than to directly serve the lots created and to provide a direct connection to an existing and approved system; or

(6) Where the proposed minor subdivision involves unusual elements or policy decisions that the Planner determines require detailed review.

(C) *Procedure*. A minor subdivision shall be approved in compliance with the following procedures.

(1) The developer shall submit an application along with all required fees.

(2) The developer shall provide a survey or surveys showing the lot or lots as they exist before the minor subdivision and the proposed lot or lots. The developer shall provide an accurate legal description of the proposed lot or lots. All lots created or changed must meet the design standards and other requirements specified in this chapter upon approval of the minor subdivision.

(3) The developer shall submit proof that any additional easements required by the city have been granted and that any conflicting easements have been vacated.

(4) The minor subdivision shall meet all requirements specified in §§ 150.55 through 150.66, as applicable.

(5) When the minor subdivision is approved, the Planner will cause it to be recorded.

(2013 Code, § 12.05) (Ord. 557, passed 10-14-1999; Ord. 608, passed 8-30-2001; Ord. 625, passed 4-25-2002)

§ 150.06 MAJOR SUBDIVISION APPROVAL PROCESS.

Approval of a major subdivision requires approval of a preliminary plat, then approval of a final plat.

(2013 Code, § 12.06) (Ord. 557, passed 10-14-1999)

§ 150.07 PRE-APPLICATION MEETING.

Prior to submitting an application for preliminary plat approval, the developer will meet with the Planner or Planner's designee in a pre-application meeting. In this meeting general concerns and the general concept of the proposed subdivision can be discussed.

(2013 Code, § 12.07) (Ord. 557, passed 10-14-1999)

§ 150.08 PRELIMINARY PLAT APPROVAL PROCESS.

(A) *Initial submittal*. Prior to submitting the formal application for preliminary plat review, the developer shall file 5 copies of a preliminary plat drawing and related documentation with the Planner.

(B) *Review*.

(1) *Review for compliance with submittal requirements*. The Planner shall review the drawing and documents to ascertain that they meet all submittal requirements specified in § 150.12. If the drawing and documents do not meet all submittal requirements identified in § 150.12, then the developer shall be notified of the items that are missing or inadequate within 10 working days.

(2) *Review for compliance with design criteria*. Once a drawing and documents are determined to meet all submittal requirements, the Planner shall review the drawing and documents for compliance with the design criteria in §§ 150.55 through 150.66. If the drawing and documents do not comply with the design criteria in §§ 150.55 through 150.66, then the developer shall be notified of the items that do not comply.

(3) *Outside review*. Once a drawing and documents are determined by the Planner to substantially comply with the design criteria, the developer shall submit 20 copies of the submittal materials for outside review. The Planner may seek comments on the drawing and documents from appropriate governmental entities and agencies, utilities, and others.

(4) *Determination of complete application*. Upon receipt of these 20 copies, the drawing and documents shall be considered a complete application for a preliminary plat. The Planner shall forward the application for a preliminary plat to the Planning Commission for consideration.

(C) *Planning Commission review*.

(1) *Public hearing*.

(a) A public hearing shall be scheduled before the Planning Commission on the application for a preliminary plat. Notice of the time and place of the hearing shall be published in the official newspaper at least 10 days before the day of the hearing.

(b) At the public hearing, all persons interested shall be given an opportunity to be heard.

(2) *Planning Commission recommendation*.

(a) *Decision*. At the close of the public hearing, upon discussion and review, the Planning Commission shall recommend approval, approval with conditions, disapproval of the preliminary plat, shall otherwise forward the plat for consideration to the City Council, or may table the matter or continue the public hearing. If disapproval is recommended, the reasons for disapproval shall be

stated.

(b) *Grounds for decision*.

1. The Planning Commission shall base its recommendation on the purposes and requirements of this chapter on comments received from staff, other governmental entities and agencies, utilities, the public, and the developer.

2. In making its recommendation, the Planning Commission shall consider the following factors:

a. Whether the layout of streets, lots, utilities, and public improvements, and their relation to the topography of the land, reflect good planning and development for the city;

b. Whether the subdivision preserves the site's important existing natural features;

c. Whether the proposed plat will facilitate the use and future development of the adjoining lands;

d. Whether the subdivision can be economically served with streets, public services, and utilities;

e. Whether all applicable provisions of this code of ordinances are met; and

f. Whether the subdivision is in conformance with any official map of the city and the comprehensive plan.

(D) *City Council review*. When the City Council receives a preliminary plat for consideration with the Planning Commission recommendation, the City Council shall approve, approve with conditions, or disapprove the preliminary plat based upon the grounds for decision set forth above and the purposes of this chapter. The City Council may elect to approve only a portion of a preliminary plat, and disapprove the remainder. The City Council has final authority to approve, approve with conditions, or disapprove a preliminary plat.

(E) *Time limitation*.

(1) *Time limit*. The City Council shall approve or disapprove a preliminary plat within 60 days following delivery of a complete application, unless the city has approved a 60-day extension for good cause shown. An extension beyond 120 days may only be approved if requested or agreed to by the developer.

(2) *Failure to approve within the time limit*. If the City Council fails to approve or disapprove a preliminary plat in accordance with division (E)(1) above, the preliminary plat shall be deemed approved, and upon demands the city shall execute a certificate to that effect.

(2013 Code, § 12.08) (Ord. 557, passed 10-14-1999)

§ 150.09 FINAL PLAT APPROVAL PROCESS.

(A) *Based on preliminary plat*. After the approval of, or during review of the preliminary plat, prior to the expiration of the approval period described in § 150.10, the developer may submit a final plat drawing and related documentation for all or a part of the land covered in the preliminary plat. If the final plat is limited to a portion of the preliminary plat, that portion must conform to all requirements of this chapter.

(B) *Initial submittal*. Prior to submitting the formal application for final plat review, the developer shall submit 5 copies of a final plat drawing and supporting documentation.

(C) *Review*.

(1) *Review for compliance with submittal requirements*. The Planner shall review the drawing and documents to ascertain that they meet all submittal requirements specified in § 150.13 and begin review to determine whether the final plat is in substantial conformity with the preliminary plat and satisfies any conditions specified in the preliminary plat. If the drawing and documents do not contain all submittal requirements identified in § 150.13, then the developer shall be notified in writing of the items that are missing or inadequate within 10 working days.

(2) *Review for compliance with conditions*. Once the drawing and documents are determined to meet all submittal requirements, the Planner shall continue to review the drawing and documents for substantial conformity with the preliminary plat, conformity with this chapter, and satisfaction of any conditions specified in the preliminary plat. If the Planner determines that the drawing and documents are not in substantial conformity with the preliminary plat or do not satisfy the conditions specified in the

preliminary plat, then the developer shall be notified of the items that are not in conformity or conditions that have not been met. The developer may request the Planning Commission to rule on the issue of substantial conformity. Their ruling shall be final.

(3) *Outside review*. Once the drawing and documents are determined to substantially conform with the preliminary plat, this chapter, and to satisfy any conditions specified in the preliminary plat, as determined by the Planner, the developer shall submit 20 copies as required by the Planner for outside review. The Planner may seek comments on the drawing and documents from appropriate governmental entities and agencies, utilities, and others. If the drawing and documents are not in substantial conformity with the preliminary plat, do not satisfy the conditions specified in the preliminary plat, or do not comply with state law or regulation, then the developer shall be notified of the items that do not comply.

(4) *Determination of complete application*. Once the drawing and documents meet all submittal requirements, are in substantial conformity with the preliminary plat, and satisfy all preliminary plat conditions, based on internal and outside review, the developer shall submit 20 copies of the revised drawing and documents. Upon receipt of these 20 copies, the drawing and documents shall be considered a complete application for a final plat. The Planner shall forward the application for a final plat to the City Council for consideration.

(D) *City Council review*. The City Council shall review the application for a final plat for compliance with requirements of this code of ordinances. The City Council may approve, approve with conditions, or disapprove the final plat. If the City Council determines that the final plat is not in substantial conformity with the preliminary plat, the City Council shall disapprove the plat. The City Council may elect to approve only a portion of a final plat, and disapprove the remainder. The City Council has final authority to approve, approve with conditions, or disapprove a final plat.

(E) *Time limitation*.

(1) *Time limit*. The City Council shall approve or disapprove a final plat within 60 days following receipt of a complete application. The City Council may extend the period an additional 60 days for cause shown. Written notice of the extension must be provided to the applicant. An extension of this time period beyond 120 days may be approved if requested by or agreed to by the developer.

(2) *Failure to approve within time limit*. If the City Council fails to approve or disapprove a final plat within the 60-day period, and if the developer has complied with all conditions and requirements, the final plat shall be deemed approved, and upon demand the city shall execute a certificate to that effect.

(F) *Recording*.

(1) No changes, erasures, modifications, or revisions shall be made in any final plat of a subdivision or any other approved division after approval has been given under the provisions of this chapter, except as required in the conditions set by the City Council or if authorized by the Planner to correct nonsubstantive errors.

(2) After approval of a final plat by the City Council, the developer shall submit the following to the Planner:

(a) Three paper copies of the construction plans;

(b) A copy of the subdivision plat drawing on disk in an electronic format approved by the City Engineer, or shall pay a drafting fee as specified under the current fee schedule so that the city may secure its own electronic copy;

(c) Copies of any required permits;

(d) Evidence of title, as described in § 150.15;

(e) The park dedication fee as set forth in § 150.65;

(f) Security for improvements as required under § 150.11 and §§ 150.35 through 150.40;

(g) A signed developer's agreement, if required under § 150.14(C);

(h) Trunk sanitary sewer fee and other applicable fees for public improvements; and

(i) A reduced Mylar of the plat at a scale of 400 feet: 1 foot.

(3) Five Mylar (or other prints consistent with county recording standards) copies of the final plat shall be signed by all parties holding an ownership interest in the property being platted, the Mayor, the City Attorney, and the City Clerk.

(4) The City Clerk shall not sign the final plat until all conditions of approval have been met, the developer's agreement (if

required) has been executed, and the City Attorney has approved title.

(5) If the plat is not recorded within 30 days after approval by the City Council, the City Clerk may notify the City Attorney, who may require additional proof of good title.

(6) Each final plat shall be recorded with the County Recorder/Registrar of Title.

(7) After the plat has been recorded, an additional reproducible Mylar print of the final plat shall be filed with the Planner, along with 2 paper copies of the final plat.

(2013 Code, § 12.09) (Ord. 557, passed 10-14-1999; Ord. 805, passed 9-11-2008)

§ 150.10 EFFECT OF PRELIMINARY AND FINAL APPROVAL.

(A) *Approval period*. City Council's approval of a preliminary plat shall remain in effect for a period of 2 years from the date of approval. City Council's approval of a final plat shall remain in effect for a period of 2 years from the date of approval. Prior to recording of a plat, the developer may withdraw the plat, in which case City Council's approval of the plat is void.

(B) *Extension of approval*. Upon request by the developer, the City Council may extend the approval period for a preliminary of final plat, subject to all applicable performance conditions and requirements. A request for an extension of approval must be filed on or before the expiration date of the preliminary or final plat. If the approval period has expired, the City Council may require a new submittal unless substantial physical activity or investment has occurred in reasonable reliance on the approved plat and the developer will suffer substantial financial damage as a consequence of a requirement to submit a new submittal.

(C) *Automatic extension for preliminary plats*. The approval period for a preliminary plat shall be automatically extended for an additional 12 months each time the City Council approves a final plat for any portion of the land included in the preliminary plat.

(D) *Rights during approval periods*. During the approval period set forth in division (A) above, unless the developer and the City Council agree otherwise, no amendment to a comprehensive plan or other ordinance shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved plat.

(2013 Code, § 12.10) (Ord. 557, passed 10-14-1999)

§ 150.11 SECURITY OPTIONS; SECURITY PERIOD, REDUCTION IN SECURITY, AND THE LIKE.

(A) *Letter of credit*. A letter of credit shall be payable to the city. Letters of credit must be from a state or federally chartered bank or savings and loan association, insured by the Federal Deposit Insurance Corporation, that has an office in the state or a subsidiary of such bank or savings association with an office in the state.

(2013 Code, § 12.17)

(B) *Security period*.

(1) *Period*. Security shall be for an initial period estimated by the developer and approved by the City Engineer, and shall be at least 30 days longer than the time necessary for completion of all improvements. The developer shall extend or renew the security as necessary to provide security until all improvements have been completed and accepted by the City Engineer.

(2) *Extension or renewal of security*. Security shall be automatically renewable.

(3) *Completion*. Completion of improvements shall occur within the time frame specified in the signed developer's agreement.

(2013 Code, § 12.18)

(C) *Reduction in security*.

(1) *When it may be reduced*. Upon completion or partial completion of the improvements and upon request by the developer, the city may release all or a portion of the security. In no event shall the security be reduced below the full amount of any unpaid inspection and administration costs, plus 100% of the amount that the City Engineer deems necessary to complete all remaining improvements. In addition to those amounts, 25% of the original security amount must also be withheld unless the City Engineer determines that a lesser percentage is sufficient to ensure satisfactory completion of the remaining improvements.

(2) *When it may be released*. Security may be released in the following circumstances and when the developer complies with division (C)(3) below:

(a) Security may be released for any improvement which the City Council has agreed to construct under M.S. Ch. 429, as it may be amended from time to time;

(b) 1. Security may be released for any improvement for which the developer has provided cash as payment in full for the developer's share of the cost of the improvement, at 125%, plus engineering and administrative costs, which improvement cannot be timely constructed by the developer, or which improvement the City Council determines is not appropriate for immediate development due to incompatible grades, future planning, inadequate or lack of connecting facilities, or other reasons.

2. If the amount of security estimated for completion of the improvement exceeds the actual costs, the city shall return any excess to the developer, with interest, upon completion of the improvement.

(c) Security may be released upon written request from the developer for any improvements when:

1. The City Engineer determines that all required improvements have been satisfactorily completed in accordance with approved construction plans and specifications and the approved SWPPP;

2. The City Engineer determines that all required improvements have been satisfactorily completed in accordance with the city design criteria and the city general specifications and standard detail plates for street and utility construction at the time the plans were approved;

3. SPUC determines that all required improvements have been satisfactorily completed in accordance with the SPUC Water Policy Manual at the time the plans were approved;

4. The developer submits to the City Engineer a detailed reproducible drawing, including an electronic form outlined in the city design criteria, of the improvements showing the details as required by the city design criteria and Ch. 151 at the time the plans were approved;

5. The developer submits sanitary sewer televising videos for all sanitary sewer improvements associated with the project; and

6. The developer is in compliance with division (C)(3) below.

(3) *Security for maintenance*.

(a) The developer is responsible to provide the city with a 1-year security in the amount of 60% of the city-approved total public improvement costs which may include, but are not limited to, the total street, utility, and park improvement costs.

(b) The security must run from the date of final acceptance of all public improvements. At the time of final acceptance, if the city determines the approved plans and specifications were not strictly adhered to or that the work was performed without adequate city inspections, the developer agrees to increase the length of the security up to a maximum of 5 years as determined by the City Engineer.

(c) The security may be any security listed as an option in § 150.40 except that a maintenance bond must be provided in place of a performance bond

(2013 Code, § 12.19)

(D) *When security may be drawn upon*. The city may draw upon the security whenever it appears that the developer will not comply with the conditions of the final plat, pay the administrative and inspection fee, or comply with the requirements of this chapter, including completion of all improvements prior to expiration of the security. The city shall make reasonable efforts to notify the developer prior to making any draw.

(Code, § 12.20) (Ord. 557, passed 10-14-1999; Ord. 651, passed 1-16-2003; Ord. 752, passed 3-30-2006; Ord. 805, passed 9-11-2008)

§ 150.12 SUBMITTAL REQUIREMENTS FOR PRELIMINARY PLANS.

(A) *Documents required.*

(1) The preliminary plat shall include the entire land area owned or controlled by the developer, unless the excluded land is of a

size described as an optional subdivision under § 150.01(C)(2).

(2) A developer shall submit the following documents to the Planner:

(a) A completed application form;

(b) A general narrative description of the project;

(c) Fees as specified in the adopted city fee schedule;

(d) A description of any requested variances;

(e) A wetland delineation report when applicable;

(f) When applicable to the land being subdivided, the developer shall submit the following documentation:

1. Evidence that a county highway permit will be granted, if the site will have access to a county road;

2. A landscape plan meeting the landscaping and tree preservation requirements of § 151.031; and

3. In rural service areas soil percolation tests, soil borings and sewage treatment design for 2 sites per proposed lot, conforming to the testing procedures of the city sewage disposal and treatment code.

(g) All required drawings as specified in division (B) below.

(B) *Drawings required*. In submitting a preliminary plat for consideration, the developer shall submit the following drawings which are described in detail below. The number of copies necessary for submittal is to be determined by the Zoning Administrator and/or the City Engineer:

(1) Copies of a drawing of the preliminary plat;

(2) Copies of an existing conditions map;

(3) Copies of a grading and erosion control plan;

(4) Copies of a street and utilities plan;

(5) Copies of a stormwater management plan; and

(6) Copies of other documentation as deemed appropriate or necessary by the Planner.

(C) *All drawings*.

(1) Each drawing submitted by the developer must be on paper which does not exceed 36 inches by 22 inches, unless otherwise approved in advance by the City Engineer. In addition, the developer shall provide 1 paper copy of each drawing on paper which is 11 inches by 17 inches.

(2) Each drawing shall contain the following items:

(a) A north arrow;

(b) A graphic scale within a minimum scale on 1 inch equals 100 feet for parcels under 20 acres. For parcels larger than 20 acres, the Planner may authorize a smaller scale; provided, that the plat must be easily interpreted at that scale. A scale of 1 inch equals 50 feet is preferred;

(c) The date of the original drawing and all revisions; and

(d) Existing and proposed street rights-of-way.

(D) *Preliminary plat drawing*. In addition to the items listed in division (C) above, a preliminary plat drawing shall contain the following items:

(1) A title block containing the name of the subdivision, "Shakopee, Minnesota", and "Preliminary Plat";

(2) The boundary of the subdivision to scale, showing existing permanent monuments, angles, bearings, and distances;

(3) The property lines and property identification (PID) numbers of all parcels of land within 100 feet of the parcel proposed for

subdivision;

(4) The name and address of the developer;

(5) The name and address of any design professional involved in the preparation of the plat, including the engineer, land surveyor, architect, planner, and the like;

(6) A block of zoning information including the following:

(a) The current zoning of the land;

(b) The total number of buildable lots;

(c) The total number of outlots;

(d) The total acreage included in the preliminary plat, in tenths of an acre;

(e) The total acreage of street right-of-way, in tenths of an acre;

(f) The total acreage of areas intended to be dedicated for public use, other than streets, alleys, pedestrian ways, and utility easements;

(g) The total acreage of outlots;

(h) The minimum lot depth in the subdivision;

(i) The minimum lot depth under Ch. 151; and

(j) The minimum lot width in the subdivision at the building setback.

(7) Proposed lot and block numbers;

(8) The exterior dimensions of each lot;

(9) The area of each lot in square feet;

(10) The location and dimensions of any existing or proposed streets;

(11) The proposed street names;

(12) The location and dimensions of any existing or proposed easements, and the type of easement;

(13) The location and dimensions of any existing or proposed sidewalks or trails;

(14) The location of any existing structures which are intended to remain after final plat recording; and

(15) Building setback lines.

(E) *Existing conditions map drawings*. In addition to the items listed in division (C) above, an existing conditions map drawing shall contain the following items:

(1) The location and dimensions of any previously platted streets;

(2) The location and dimensions of driveways or other curb cuts;

(3) A location map of the subject property at a minimum scale of 1 inch equals 2,000 feet;

(4) The property lines and PID numbers of all parcels of land within 100 feet of the parcel proposed for subdivision;

(5) Any existing infrastructure, such as sanitary sewer, storm sewer, watermains, culverts, or other underground facilities;

(6) The location and dimensions of any wetlands;

(7) The location and dimensions of any existing easements and right-of-way;

(8) Contours of the land at two-foot intervals;

(9) The location and size of all trees which are over 6 inches in diameter, measured at 6 feet off the ground, with all such trees

proposed for removal dearly identified. Trees in a delineated woodland area, which will not be disturbed, need not be individually identified;

(10) The location and perimeter of all floodplains;

(11) The location and perimeter of all shoreland areas;

(12) The location of any existing wells;

(13) The location and dimensions of any known contaminated soils areas;

(14) The location of any existing septic systems;

(15) The location and dimensions of any existing foundations or retaining walls;

(16) The location and dimensions of any known fill areas;

(17) The location and ordinary high water mark of any lake, stream, or other watercourse; and

(18) The location of any power transmission poles and towers.

(F) *Grading and erosion control plan*. In addition to the items listed in division (C) above, a grading and erosion control plan drawing shall contain the following items:

(1) Existing contours at two-foot intervals up to 100 feet off-site, shown by light dashed lines;

(2) Proposed contours at two-foot intervals up to 100 feet off-site, shown by solid lines;

(3) Spot and finished elevations at all property corners;

(4) Proposed floor elevations;

(5) Existing floor elevations for all structures;

(6) The lowest final grade elevation for all lots adjacent to stormwater facilities;

(7) Street grade changes and percentage of grade;

(8) Ordinary high water (OHW) level of all ponding facilities, wetlands, lakes, streams, and rivers, all of which also shall be identified and labeled;

(9) Bench mark listing location and elevation;

(10) Grading and erosion control information, including the following:

(a) Maximum driveway grade;

(b) Maximum ditch grade;

(c) Minimum ditch grade;

(c) Maximum slope grade;

(d) Maximum street grade;

(e) Minimum street grade; and

(f) Maximum street grade within 50 feet of a street intersection.

(11) Delineation of wetlands on the site;

(12) Erosion control features including detail drawings as required in the erosion control plan, and lot benching details;

(13) An erosion control statement as required by the design criteria;

(14) Name, registration number, and signature of the professional engineer or surveyor, and

(15) Storm sewer schematic to 100 feet off-site, showing both proposed and existing.

(G) *Street and utilities plan drawing*. In addition to the items listed in division (C) above, a street and utilities plan drawing shall contain the following items:

(1) A sanitary sewer schematic to 100 feet off-site, showing both proposed and existing, including the following:

(a) Rim and invert elevations;

(b) Pipe size, grade, and material; and

(c) Manhole size and type.

(2) Sanitary sewer information, including the following:

(a) Maximum length between manholes; and

(b) Maximum depth of manhole as measured from the top of the rim elevation to the sewer invert elevation.

(3) Storm sewer schematic to 100 feet off-site, showing both proposed and existing, including the following:

(a) Rim and invert elevations of structures and catch basins; and

(b) Pipe size and material.

(4) Storm sewer information, including the following:

(a) Maximum length between manholes;

(b) Minimum depth of manhole as measured from the top of the rim elevation to the sewer invert elevation; and

(c) Normal and high water elevations for any pond, shown on the plan view.

(5) Typical roadway sections;

(6) Drainage and utility easements;

(7) Name, registration number, and signature of the professional engineer;

(8) Sanitary sewer profiles;

(9) Storm sewer profiles; and

(10) Street layout including curb lines.

(H) *Stormwater management plan drawing*. In addition to the items listed in division (C) above, a stormwater management plan drawing shall contain the following items:

(1) Drainage area map, showing the following:

(a) A delineation of existing and proposed drainage sub-areas, including any larger tract or basin of which the subject is a part;

(b) All proposed ponding areas, with the normal and high water elevations; and

(c) Off-site drainage volumes and rates for each sub-area.

(2) Drainage calculations, including the following:

(a) Total stormwater runoff from the site and entering the site;

(b) Gross area of the subdivision;

(c) National Urban Runoff Program or water quality pond volume and sediment storage volume; and

(d) Pond sizing computations.

(3) Existing contours at two-foot intervals up to 100 feet off-site, shown by light dashed lines;

(4) Proposed contours at two-foot intervals up to 100 feet off-site, shown by solid lines;

(5) Normal and high water levels of all ponding facilities, wetlands, lakes, streams, and rivers, all of which also shall be identified

and labeled;

(6) Bench mark listing location and elevation;

(7) Delineation of wetlands on the site;

(8) Name, registration number, and signature of the professional engineer;

(9) Directional arrows showing lot and site drainage patterns;

(10) A narrative and summary of the stormwater calculations;

(11) Emergency overflow routes and elevations from all ponding areas and wetlands for a 100-year storm;

(12) Total pond volume required and available for each pond;

(13) National Urban Runoff Program or water quality pond volume required and available for each pond;

(14) Storm sewer schematic to 100 feet off-site, showing both proposed and existing storm sewers; and

(15) A delineation of the floodway, flood fringe, and floodplain.

(2013 Code, § 12.21) (Ord. 557, passed 10-14-1999; Ord. 710, passed 7-29-2004)

§ 150.13 SUBMITTAL REQUIREMENTS FOR FINAL PLATS.

(A) *Documents required*. A developer shall submit the following documents to the Planner;

(1) A completed application form;

(2) A fee as specified in the fee schedule; and

(3) All required drawings and additional documentation specified below.

(B) *Drawings required*. In submitting a final plat for consideration, the developer shall submit the following drawings which are described in detail below, the number of copies necessary for submittal is to be determined by the Zoning Administrator:

(1) Copies of a drawing of the final plat;

(2) Copies of a drawing of the area plat;

(3) Paper copies and 1 autocad copy of construction plans for all public improvements;

(4) When applicable to the land being subdivided, the developer shall submit the following documentation:

(a) Construction plans for all public improvements, including, but not limited to, the following:

1. Streets, sewer mains, storm drainage facilities, sidewalks, trails, street lights, and other public improvements governed by city design criteria; and

2. Watermains and other public improvements governed by city public utilities design criteria.

(b) Any required permits or approvals, including, but not limited to, the following:

1. State Department of Transportation permit to work in the right-of-way;

2. County permit to work in the right-of-way;

3. State Pollution Control Agency national pollutant discharge elimination system permit;

4. State Pollution Control Agency sanitary sewer extension permit; and

5. City street cut permit for utility installation.

(c) A petition for improvements intended to be constructed by the city and specially assessed under M.S. Ch. 429, as it may be amended from time to time, if desired by the developer.

(5) Copies of other documentation as deemed appropriate or necessary by the Planner.

(C) *All drawings*.

(1) Each drawing submitted by the developer must be on paper which is a minimum 11 inches by 17 inches or a maximum of thirty 36 inches by 22 inches, unless otherwise approved in advance by the City Engineer.

(2) Each drawing shall contain the following items:

(a) A north arrow;

(b) A graphic scale with a minimum scale of 1 inch equals 100 feet for parcels under 20 acres. For parcels larger than 20 acres, the Planner may authorize a smaller scale; provided, that the plat must be easily interpreted at that scale. A scale of 1 inch equals 50 feet is preferred;

(c) Proposed lot lines; and

(d) Existing and proposed street rights-of-way.

(D) *Final plat drawing*. In addition to the items listed in division (C) above, a final plat drawing shall be submitted on autocad and shall contain the following items:

(1) A title block containing the name of the subdivision, "Shakopee, Minnesota", and "Final Plat";

(2) The legal description of the entire parcel proposed for final platting;

(3) The boundary of the subdivision to scale, showing angles, bearings, distances, and either showing permanent monuments or a statement that all monuments will be set within 1 year after recording;

(4) A sworn certification by a registered land surveyor, that the plat is a correct representation of a survey made by that surveyor, that all distances are correctly shown, that all monuments have been or will be correctly placed in the ground as shown or stated, and that the outside boundary lines are correctly designated on the plat;

(5) The name and adjacent boundary lines of any adjoining platted lands;

(6) Lot and block numbers;

(7) The exterior dimensions of each lot;

(8) The location and dimensions of any existing or proposed streets, alleys, trails, and other public areas;

(9) The proposed street names;

(10) The location and dimensions of any existing or proposed permanent easements and the type of easement;

(11) A notarized statement by the property owner and any mortgage holder dedicating all streets, alleys, trails, easements, and other public areas as follows: "Streets, alleys, trails, easements, and other public areas shown on this plat are hereby dedicated to the public";

(12) Space for certificates of approval to be filled in by the signatures of the Mayor, City Attorney, and City Clerk, in the following form.

Approved by the City of Shakopee, Minnesota, this____ day of_____, 20__ .

_____

Mayor

ATTEST:

_____

City Clerk

I certify that I have examined evidence of title for this plat and recommend this plat for approval.

_____
City Attorney

(E) *Area plat drawing*. In addition to the items listed in division (C) above, an area plat drawing shall contain the following items:

(1) The name and address of the developer;

(2) The name and address of any design profession involved in the preparation of the plat (including the engineer, land surveyor, architect, planner, and the like);

(3) The date of the original drawing and all revisions;

(4) A block of zoning information including the following:

(a) The current zoning of the land;

(b) The total number of buildable lots;

(c) The total number of outlots;

(d) The total acreage included in the final plat, in tenths of an acre;

(e) The total acreage of street right-of-way, in tenths of an acre;

(f) The total acreage of areas intended to be dedicated for public use, other than streets, alleys, pedestrian ways, and utility easements;

(g) The total acreage of outlots;

(h) The minimum lot depth in the subdivision;

(i) The minimum lot depth under the zoning ordinance; and

(j) The minimum lot width in the subdivision at the front building setback.

(5) The area of each lot in square feet;

(6) The property lines and PID numbers of all parcels of land within 100 feet of the parcel proposed for subdivision;

(7) The location and dimensions of any existing or proposed temporary easements, and the type of easement;

(8) The location and dimensions of any existing or proposed sidewalks or trails not otherwise shown in an easement;

(9) The location of any existing structures which are intended to remain after final plat recording; and

(10) Building setback lines.

(F) *Common interest community subdivisions*. In addition to the items listed above, in common interest community subdivisions, the developer shall provide the following:

(1) Evidence that perpetual access is provided to each unit;

(2) Evidence that a perpetual easement or other access is provided for utilities to each unit;

(3) Evidence that a perpetual easement or other egress is provided for storm water drainage from each unit; and

(4) Evidence that perpetual maintenance of common areas is provided for.

(2013 Code, § 12.22) (Ord. 557, passed 10-14-1999; Ord. 710, passed 7-29-2004)

§ 150.14 SUBMITTAL REQUIREMENTS BEFORE FILING FINAL PLAT.

(A) *Evidence of title*. The developer shall submit to the City Attorney evidence of title to the property. This is required in order to allow the City Attorney to determine whether the city is acquiring clear title to any property being dedicated, such as streets, parks, and easements. Evidence of title can be either an abstract of title continued to date, or a registered property abstract. In those instances where an abstract of title or registered property abstract is lost or otherwise not available, the developer shall submit evidence of title satisfactory to the City Attorney.

(B) *Reformation of mortgages*. If there is an existing mortgage on the property being subdivided, the developer must submit evidence that the legal description on any mortgages have been reformed to match lots and blocks of the plat.

(C) *Developer's agreement*.

(1) If security needs to be provided for any improvements under § 150.10 and §§ 150.35 through 150.40, the developer shall enter into a developer's agreement with the city prior to filing the final plat. The developer's agreement shall identify who is constructing each improvement and identify the security being provided for construction and maintenance.

(2) Conditions imposed by the City Council in its approval of the final plat may be included in the developer's agreement, along with any other appropriate provisions. Any provisions included in an executed developer's agreement shall supersede the provisions of applicable portions of this code of ordinances.

(3) The developer's agreement shall dictate the number and timing of building permit issuance within the final plat and shall allow for a hold harmless provision regarding the city, its agents, officers, and employees.

(2013 Code, § 12.23) (Ord. 557, passed 10-14-1999; Ord. 805, passed 9-11-2008)

§ 150.15 FEES.

The developer shall pay the city administrative and inspection fees consistent with the fees established annually by the City Council. These fees shall be based on a percentage of the estimated cost of the improvements. All engineering and inspection fees are due prior to inspection, if the final plat for the property has not been recorded. If the final plat is to be recorded, then 1/2 of the fees are due prior to recording the final plat, and the other 1/2 may be included in the security and must be paid prior to the time of acceptance of the final improvements. Fees shall be based upon the most recent fees as established yearly by Council for the city.

(2013 Code, § 12.39) (Ord. 557, passed 10-14-1999)

§ 150.16 ADMINISTRATION.

(A) *Enforcing officer*. This chapter shall be administered and enforced by the Planner or Planner's designee in accordance with its terms.

(B) *Duties of the Planner*. The Planner's duties shall include the following:

(1) Administer all applications under this chapter;

(2) Serve as staff advisor to the Planning Commission and the City Council;

(3) Prepare reports and information for the Planning Commission and the City Council, and attend their meetings and participate in their hearings and discussions;

(4) Maintain records of all preliminary plats, final plats, minor subdivisions, variances, appeals, and other matters regulated by this chapter;

(5) Determine that all building permits comply with the terms of this chapter;

(6) Institute appropriate enforcement proceedings and actions against violators; and

(7) Perform such other functions as may be necessary to enforce and administer this chapter.

(C) *Notice*. Failure to give notice or to give adequate notice of proceedings under this chapter, when such is required by this chapter, shall not invalidate any proceedings; provided, that a good faith attempt has been made to comply with the notice requirement.

(D) *Fees*. The fees required by this chapter shall be those specified in the most recent fee schedule adopted by the City Council.

Fees are payable at the time a drawing and documents are submitted to initiate a preliminary or final plat, or upon submission of an application for any other procedure governed by this chapter. No application shall be deemed to be complete until the fee has been paid. The fee may be waived by the City Council in the case of applications filed in the public interest by the Planning Commission or City Council.

(2013 Code, § 12.40) (Ord. 557, passed 10-14-1999)

§ 150.17 SUBDIVISION REGULATION AMENDMENTS.

(A) *Initiation*. An amendment to the subdivision regulations may be initiated only by the City Council or by the Planning Commission. All amendments shall be consistent with the purposes of this chapter.

(B) *Criteria for granting a subdivision regulations amendment*. The City Council may approve an amendment to the subdivision regulations amendment when it finds that 1 or more of the following criteria have been met:

(1) The original subdivision regulations ordinance is in error;

(2) Significant changes in community goals and policies have taken place;

(3) Significant changes in city-wide or neighborhood development patterns have occurred; or

(4) The comprehensive plan requires a different provision.

(C) *Planning Commission recommendations*. The Planning Commission shall review each proposed amendment to the subdivision regulations, and submit its recommendation to the City Council.

(D) *City Council action*. After receipt of the recommendation of the Planning Commission, the City Council shall consider and act on the amendment.

(E) *Reapplication*. No amendment which is denied wholly or in part by the City Council shall be resubmitted for a period of 6 months from the date of denial, except on grounds of new evidence or change of conditions. Each reapplication shall be considered a new application.

(2013 Code, § 12.41) (Ord. 557, passed 10-14-1999)

§ 150.18 VARIANCES.

(A) *Unusual hardship*. The City Council may vary the subdivision regulations as they apply to specific properties where an unusual hardship exists on the land or where the City Council has previously granted variations from this chapter as a part of a separate planned unit development (PUD) application and review. Prior to Council action, the Planning Commission shall have reviewed the application and approved, approved with conditions, or denied the application. Failure of the Planning Commission to make a decision, after a written request to do so at a specifically designated meeting, shall constitute a denial.

(B) *Specific grounds for granting variances*.

(1) Variances will be granted only when the City Council finds that exceptional circumstances exist or practical difficulties will result from strict compliance with the subdivision regulations, or that the purposes of the subdivision regulations may be served to a greater extent by an alternative proposal. In determining whether to grant a variance, the City Council may consider any factor demonstrating that strict compliance with the subdivision regulations would be unreasonable, impractical, or not feasible under the particular circumstances.

(2) In making its determination, the City Council may consider any relevant factor, including, but not limited to, the following:

(a) The variance will not have the effect of nullifying the intent and purpose of the subdivision regulations;

(b) The purposes and intent of this chapter may be equally served by the alternative proposal;

(c) The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property or improvements in the neighborhood in which the property is located;

(d) The conditions upon which the request for a variance are based are not generally applicable to other property in the city;

(e) The particular physical surroundings, shape, or topographical conditions of the specific property involved; and

(f) The variance will not in any manner vary the provisions of the zoning ordinance, comprehensive plan, or any official map.

(C) *Application*. An application for a variance shall be filed with the Planner or Planner's designee on the appropriate forms stating the unusual hardship claimed and the specific relief requested.

(D) *Submission with preliminary plat*.

(1) Request(s) for a variance under this chapter shall be submitted with the application for preliminary plat approval.

(2) An application submitted independent of a preliminary plat must meet all submittal requirements for a preliminary plat, except those waived by the Planner as unnecessary due to the specific nature of the variance requested.

(E) *Decision*. Upon recommendation by the Planning Commission, the City Council may grant or deny a variance. Variances may be approved by the affirmative vote of a simple majority of those present. If the City Council denies a variance, it shall make a finding and determination that the conditions required for approval do not exist. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of 6 months from the date of denial, except on grounds of new evidence or proof of change of conditions.

(F) *Additional conditions*. In granting a variance, the City Council may impose conditions in order to preserve the health, safety, or welfare of the community or in order to meet the purposes of this chapter or the comprehensive plan.

(G) *Recording*. Each variance shall be enumerated in, and thereby recorded with the final plat resolution in the County Recorder's office.

(H) *Term of variance*. A variance granted by the City Council shall expire if the preliminary or final plat to which it relates expires.

(I) *Violations*. No developer shall violate, fail to comply with, or assist, direct, or permit the violation of the terms or conditions of a variance. Such violation shall be a violation of the variance and shall render the variance null and void.

(2013 Code, § 12.42) (Ord. 557, passed 10-14-1999) Penalty, see § 150.99

§ 150.19 APPEALS.

(A) *Appeals from city staff decision*.

(1) Any person aggrieved by a decision of the Planner, the Planner's designee, or other city staff person regarding the enforcement of this chapter, may appeal to the Board of Adjustment and Appeals. The appeal shall specify what error allegedly was made in an order, requirement, decision, or determination made by the Planner or other person.

(2) The appeal shall be filed in writing with the Planner within 7 days of the date of decision. Upon receipt of an appeal, the Planner shall schedule the matter for consideration by the Board. The Board shall have authority to affirm, modify, or reverse the decision of the Planner or other person. This provision shall not apply in the case of a criminal prosecution for violation of this chapter.

(B) *Construction during appeal period*. Any developer who obtains a building permit and starts construction during an appeal period assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city, the developer will be notified of the appeal, unless the developer filed the appeal.

(2013 Code, § 12.43) (Ord. 557, passed 10-14-1999)

§ 150.20 NONCONFORMITIES.

(A) *Purpose*. When a lot or final plat existed on the effective date of this chapter and no longer fully meets the regulations of this chapter, such lot or plat will be allowed to develop under carefully regulated conditions.

(B) *Development of nonconforming lot or plat*. Development of a nonconforming lot or plat may be permitted upon a finding by the Board of Adjustment and Appeals of the following:

(1) The number and extent of nonconformities will not be affected or will be reduced in conjunction with the proposed

development;

(2) The impact of nonconformities upon adjacent property will not be affected or will be reduced in conjunction with the proposed development; and

(3) The conditions to be imposed by the Board of Adjustment and Appeals will effect the intent of this section.

(C) *Nonconformity; eminent domain*. When the taking under eminent domain of a portion of the land upon which there existed a lawful lot or division of land prior to such taking results in such lot or division of land becoming unlawful under this chapter, such use is a nonconformity and may be continued only under the provisions of this chapter.

(2013 Code, § 12.44) (Ord. 557, passed 10-14-1999)

§ 150.21 RECORDING WITHOUT COMPLIANCE WITH THIS CHAPTER.

(A) *Filing of conveyance of land*. No conveyance of land to which these regulations apply shall be filed or recorded with the office of the County Recorder/Registrar of Title, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat made after these regulations become effective, except if the land described:

(1) Was a separate parcel of record as of July 25, 1972, when the city first adopted subdivision regulations;

(2) Was the subject of a written agreement to convey entered into prior to July 25, 1972;

(3) Was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1,1966;

(4) Was a separate parcel of not less than 5 acres in area and 300 feet in width on July 1, 1980;

(5) Is a single parcel of commercial or industrial land of not less than 5 acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into 2 or more lots or parcels, any 1 of which is less than 5 acres in area or 300 feet in width; or

(6) Is a single parcel of residential or agricultural land 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 2 or more lots or parcels, any 1 of which is less than 20 acres in area or 500 feet in width.

(B) *Exception*. In any case in which compliance with division (A) above 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 and the conveyance may then be filed or recorded.

(C) *Sales of lots from unrecorded plats*. It is unlawful to sell, trade, or otherwise convey any lot as a part of, or in conformity with, any plat of any subdivision unless the plat has been recorded with the County Recorder/Registrar of Title.

(2013 Code, § 12.45) (Ord. 557, passed 10-14-1999) Penalty, see § 150.99

§ 150.22 PUBLIC NOTICE, NEIGHBORHOOD MEETINGS, POSTING OF SIGNS AND OTHER GENERAL RULES.

Section 151.018 of the City Code applies to all applicable development approval and permit requests under this chapter.

(Ord. 951, passed 12-20-2016)

IMPROVEMENTS

§ 150.35 DEVELOPER CONSTRUCTION IMPROVEMENT DUTIES.

(A) *Responsibility*. The developer shall construct all improvements required in a plat, except for specified improvements that the city has agreed to construct and assess as provided in § 150.36. Before the final plat is recorded, the developer shall provide for

extension of the improvements described in this chapter to all lots in the areas to be included in the final plat at no cost to the city.

(B) *Cost*.

(1) All required improvements shall be constructed by the developer at no cost to the city, except for oversizing expenses.

(2) The city will pay for oversizing when the oversizing is done at the specific written request of the city.

(3) When an improvement is oversized, the city's share of the cost of construction shall be that portion attributable to the oversizing, and shall be as approved by the City Engineer.

(C) *Standards*. The improvements shall be installed in accordance with the construction plans approved by the City Engineer and the provisions of this chapter.

(D) *Final plat of a part of the preliminary plat area*. If the final plat does not include all land included in the preliminary plat, temporary improvements may be allowed or required by the City Council on land included in the preliminary plat, but excluded from the final plat. Temporary improvements may be required in that area if necessary to protect neighboring property, to comply with provisions of this code of ordinances, or to assure the orderly development of the property in the plat.

(E) *Temporary improvements*. The developer shall build and pay all costs for temporary improvements required by the City Council and shall maintain all temporary improvements for the period specified by the City Council. Prior to construction of any temporary improvement, the developer shall file with the city satisfactory security which shall ensure that the temporary improvements will be properly constructed, maintained, and removed and replaced with permanent improvements if necessary.

(F) *Insurance*. When performing work in the public right-of-way, the developer shall have insurance sufficient to protect the city from any liability or harm. No construction shall commence until the City Clerk has received and approved a certificate showing such insurance.

(2013 Code, § 12.11) (Ord. 557, passed 10-14-1999)

§ 150.36 CITY MAY CONSTRUCT IMPROVEMENTS.

(A) *Upon request*. A developer may request the city to construct improvements in a plat and assess the costs of their construction under M.S. Ch. 429, as it may be amended from time to time.

(B) *Procedures*. If the developer wants the city to construct the improvements, the developer shall comply with the following procedures.

(1) *Petition*. The developer shall submit a petition to the City Council requesting that the city construct specified improvements, and waiving all rights to appeal the amount of special assessments which are assessed as a result of the installation of the improvements.

(2) *City Council action*. The City Council shall consider the petition, and may, in its sole discretion, choose to accept or reject the petition.

(3) *Construction of improvements*. If approved by the City Council, the specified improvements shall be constructed in accordance with M.S. Ch. 429, as it may be amended from time to time. The city shall have sole responsibility for administration of the project and will not be responsible for meeting any completion dates scheduled by the developer. The city shall not be responsible for any damages as a result of delays in the project. If the contract for the project is awarded on a unit price basis, the city may authorize changes in the contract so as to include additional units of work at the same unit price, so long as the cost of the additional work does not exceed 25% of the original contract price. By requesting that the city construct the improvement, the developer acknowledges that any changes or additional work required shall be approved by the city.

(4) *Developer to pay*. The developer agrees to pay the assessments on the following terms and conditions.

(a) The developer shall waive and release any and all objections of every kind to assessments levied by the city for the specified improvements, including without limitation: objections to procedures and hearings before the City Council in connection with the improvements and assessment therefor; objections resulting from failure to fully comply with any applicable statute; and objections to the amount of any assessment levied against any property of the developer that is benefitted by the improvements.

(b) The developer shall waive and release the right to appeal the assessment.

(c) The developer shall pay the annual installments of special assessments and taxes when due. The developer may not claim green acres status on any benefitted land.

(5) *Early assessment*. The developer may request that the special assessments be levied prior to the final wear course being placed on streets. The final decision as to when special assessments are levied is at the sole discretion of the City Council. The cost of the final wear course may be estimated and included in the early assessment, or it may be levied after the final wear course is placed on the streets.

(6) *All costs assessed*. The entire cost of installation of the specified improvements, including any reasonable engineering, legal, and administrative costs incurred by the city, shall be paid by the developer to the city as special assessments levied against the benefitted land. The developer also shall pay any applicable interest.

(7) *Occupancy permits*. No occupancy permit shall be issued for any lot unless any levied special assessments for that lot have been paid. If special assessments are pending but not levied, then an occupancy permit may be issued for a lot only if the developer has agreed in writing to pay the special assessments when levied. Once the pending assessments are levied, no further occupancy permits will be issued for any lot in the subdivision until all special assessments have been paid on the lots which already have occupancy permits.

(8) *Security for special assessments*. A developer shall provide security for special assessments under 1 or more of the methods in this division (B)(8).

(a) *100% cash deposit*.

1. Prior to the recording of the final plat, the developer shall pay to the city in cash a deposit in the sum and amount of 100% of the City Engineer's estimated total assessment for all such Plan B Improvements, said amount to be paid upon execution of the developer's agreement.

2. The cash so paid by the developer to the city will bear interest for each year at a rate equal to 1% below the average interest rate (rounded to the nearest quarter percent) on the investments held by the city on December 31 of the respective year until said deposit, plus all accrued interest shall be used to pay the remainder of the assessments due. Any excess in deposits will be returned to the developer.

3. If the developer fails to pay any assessments, interest, or penalty as the same come due, the city may draw on said deposit for any such amounts not paid. Those assessments as levied shall be paid by the developer to the city as special assessments levied against the benefitted land.

(b) *Letter of credit*.

1. Prior to the recording of the final plat, the developer shall submit to the city a certified letter of credit approved by the City Attorney made payable to the city upon which the city may draw, in the amount of 100% of the City Engineer's estimated total assessment for all such Plan B Improvements; said letter of credit to be submitted upon execution of the developer's agreement. If the developer fails to pay any assessments, interest, or penalty as the same come due, the city may draw on said letter of credit for any such amounts not paid.

2. Those assessments as levied shall be paid by the developer of a future lot, piece, or parcel owner to the city as special assessments levied against the benefitted land. The letter of credit shall be renewed annually. If not renewed, the city shall draw on all of the money in the existing letter of credit before it expires.

3. The letter of credit shall be terminated upon payment of all assessments due on developer owned lots and may be reduced to equal the actual amount of assessments due when 75% or more of the assessments have been paid. Reductions shall be limited to 1 per year.

(9) *Payment within 10 years*. All special assessments must be paid in full within 10 years from the date the special assessments are levied. If the special assessments are not paid, the developer will be personally liable for any unpaid special assessments, plus interest, collection costs, and attorney's fees.

(10) *Easements and right-of-way*. The developer must grant or cause to be granted to the city, at no cost to the city, all permanent or temporary easements and right-of-way necessary for the installation and maintenance of the Plan A Improvements.

(2013 Code, § 12.12) (Ord. 557, passed 10-14-1999; Ord. 805, passed 9-11-2008)

§ 150.37 CHANGE IN WHO CONSTRUCTS IMPROVEMENTS.

(A) *City to construct improvements*. The developer may request that the city construct some or all of the improvements originally planned to be constructed by the developer. If the City Council approves, then the specified improvements shall be constructed by the city as set forth in § 150.36.

(B) *Developer to construct improvements*. The developer may request that the developer be allowed to construct some or all of the improvements originally planned to be constructed by the city. If the City Council approves, then the specified improvements shall be constructed by the developer as set forth in § 150.35 security shall be provided as described in this chapter.

(2013 Code, § 12.13) (Ord. 557, passed 10-14-1999)

§ 150.38 DEDICATION OF PUBLIC IMPROVEMENTS.

(A) *Improvements*. All public improvements shall be dedicated to the city free and clear from any encumbrances. Dedication shall become effective upon written acceptance of the improvement by the City Engineer.

(B) *Easements*. A public easement or right-of-way shall be dedicated around all public improvements, including streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds, and similar utilities and improvements.

(2013 Code, § 12.14) (Ord. 557, passed 10-14-1999)

§ 150.39 TIMING OF IMPROVEMENTS.

(A) *Construction timing*.

(1) *Right to proceed with construction*.

(a) Within the plat or collective land to be platted, the developer shall not construct site grading improvements or otherwise disturb the earth nor remove trees until all the following conditions have been satisfied:

1. Preliminary plat approval has been obtained from the City Council;

2. The necessary security and applicable fees have been received by the city;

3. All required grading plans, stormwater management plans, erosion and sediment control plans, SWPPPs, and specifications have been approved by the City Engineer or assigns; and

4. The City Engineer or assigns has issued a grading permit.

(b) Within the plat or collective land to be platted, the developer shall not construct street improvements, sanitary sewer improvements, storm sewer improvements, water distribution system improvements, other utilities, public or private improvements, nor any buildings until all the following conditions have been satisfied:

1. This agreement has been fully executed by both parties and filed with the City Clerk;

2. The necessary security and all applicable fees have been received by the city;

3. All required plans and specifications have been approved by the City Engineer and the City Public Utilities Manager; and

4. The plat has been recorded with the County Recorder's office or Registrar of Title's office of the county.

(2) *Acceptance*.

(a) Grading done prior to the approval of a final plat are at the developer's risk.

(b) The city may refuse to accept any grading or other public improvements if the improvements were not inspected by the city at the time of installation, all engineering and inspection fees were not paid, the improvements were not constructed according to city design criteria, or security for maintenance, as described in § 150.11(C)(3), is not provided.

(B) *Construction required before recording final plat*. The City Council may require that certain public improvements be installed and dedicated prior to recording the final plat when necessary for the protection of other property.

(C) *Construction after recording final plat*. If a public improvement is not constructed, installed, and dedicated prior to recording the final plat, then security shall be provided to the city to assure the satisfactory completion of the improvement at no cost to the city.

(2013 Code, § 12.15) (Ord. 557, passed 10-14-1999; Ord. 805, passed 9-11-2008)

§ 150.40 SECURITY OPTIONS FOR IMPROVEMENTS CONSTRUCTED BY THE DEVELOPER.

(A) *Options for different types of security*.

(1) The security for improvements shall be in a form acceptable to the city. The city has approved several options, and the developer may choose which option or combination of options to utilize.

(2) The options are as follows:

(a) Cash; or

(b) Letter of credit.

(3) A letter of credit shall be in a form approved by the City Attorney.

(B) *Amount of the security*.

(1) *Improvements*. Security shall be provided in an amount sufficient to satisfactorily complete the construction, installation, and dedication of all public improvements and erosion control measures, including all improvements required outside the final plat.

(2) *Inspection and administration*. The security shall include an amount sufficient to cover 125% of the estimated costs of city inspection and administration as set forth in the city's fee schedule.

(3) *Total*. The amount of the security shall equal 125% of the estimated total cost of the improvements, plus 100% of the estimated costs of city inspection and administration.

(4) *Estimate made*. The estimate of total cost shall be submitted by the developer and approved by the City Engineer.

(C) *Timing*. The security shall be provided to the city and approved prior to recording the final plat.

(D) *Deferral*.

(1) The City Council may defer or waive, subject to appropriate conditions, the construction of any improvement which, in the City Council's judgment, is not in the best interests of the public health, safety, and general welfare, or which is inappropriate due to inadequacy or lack of connecting improvements. Security will not be deferred.

(2) The developer shall provide security to ensure that, upon demand by the city, any deferred improvement shall be constructed.

(E) *Improvements excluded from the security*. If the developer has entered into an agreement with the City Public Utilities Commission for construction of an improvement, and has made satisfactory security arrangements with City Public Utilities for the improvement, then no security for the improvement shall be required by the city.

(F) *Exchange of security*. At any time during the period of the security, the City Attorney may accept a substitution or a substitution of a letter of credit, escrow, or other approved security agreement.

(2013 Code, § 12.16) (Ord. 557, passed 10-14-1999; Ord. 805, passed 9-11-2008)

DESIGN CRITERIA

§ 150.55 GENERALLY.

(A) *Purpose*. Each subdivision of land needs to blend with and complement surrounding divisions of land. In order to accomplish this, the city has established certain design criteria to which all divisions of land must conform.

(B) *City design criteria*. All public improvements, subdivisions, and new buildings within new subdivisions shall be designed, constructed, and installed according to and conform to the following city design criteria.

(1) *Public infrastructure*. The City Engineer has prepared, and the City Council has adopted, design criteria and specifications for construction and installation of public improvements.

(2) *Natural resources corridor*. The City Council has adopted design criteria for protecting natural features and natural functions associated with specific resources.

(2013 Code, § 12.24) (Ord. 557, passed 10-14-1999; Ord. 798, passed 5-20-2008)

§ 150.56 GRADING.

All grading for a subdivision shall be done in accordance with the city design criteria.

(2013 Code, § 12.25) (Ord. 557, passed 10-14-1999)

§ 150.57 EROSION CONTROL.

(A) *Required*. Erosion control shall be provided for all land in a subdivision during construction.

(B) *Design criteria*. All erosion control measures shall be designed, constructed, installed, and removed in accordance with the city design criteria.

(2013 Code, § 12.26) (Ord. 557, passed 10-14-1999)

§ 150.58 STORM SEWER.

(A) *Required*. Storm sewer or surface water drainage facilities shall be provided for all land in a subdivision.

(B) *Design criteria*. All storm sewers shall be designed, constructed, and installed in accordance with the city design criteria.

(C) *Trunk fees*. The developer shall pay to the city trunk storm sewer fees as established by the City Council.

(2013 Code, § 12.27) (Ord. 557, passed 10-14-1999)

§ 150.59 SANITARY SEWER.

(A) *Required*. Sanitary sewer facilities shall be provided for all developable lots in a subdivision. Private sewer systems or septic systems shall be allowed only outside the Metropolitan Urban Service Area.

(B) *Design criteria*. All sanitary sewers shall be designed, constructed, and installed in accordance with the city design criteria.

(C) *Trunk fees*. The developer shall pay to the city trunk sanitary sewer fees as established by the City Council.

(2013 Code, § 12.28) (Ord. 557, passed 10-14-1999)

§ 150.60 UTILITIES.

(A) *Required*. Public water, electric, and gas shall be provided for all developable lots in a subdivision. Provision for other utilities, such as telephone and cable television, shall be included in the design of the subdivision, but are not required to be installed.

(B) *Design criteria*. All utilities shall be designed, constructed, and installed in accordance with any applicable city design criteria.

(2013 Code, § 12.29) (Ord. 557, passed 10-14-1999)

§ 150.61 STREET LIGHTS.

(A) *Required*. Street lights shall be provided in a subdivision as required in the city design criteria.

(B) *Design criteria*. All street lights shall be designed, constructed, and installed in accordance with any applicable city design criteria.

(C) *Installation of street lighting*. The subdivider shall provide for installation of street lighting and operation for a period of 3 years as prescribed by the Utilities Manager.

(2013 Code, § 12.30) (Ord. 557, passed 10-14-1999)

§ 150.62 STREETS AND ALLEYS.

(A) *Required*. All lots shall abut either a public street or common property specified for street or driveway use in a common interest community subdivision.

(B) *Design criteria*. All streets and alleys shall be designed, constructed, and installed in accordance with the city design criteria. Rights-of-way shall be dedicated to the city at no cost to the city at the width specified in the design criteria.

(2013 Code, § 12.31) (Ord. 557, passed 10-14-1999)

§ 150.63 SIDEWALKS AND TRAILS.

(A) *Required*. Sidewalks and trails shall be provided where specified in the city's sidewalk and trail plans.

(B) *Design criteria*. All sidewalks shall be designed, constructed, and installed in accordance with the city design criteria.

(2013 Code, § 12.32) (Ord. 557, passed 10-14-1999)

§ 150.64 LOTS AND BLOCKS.

(A) *Lots*. All lots shall be of at least the minimum size specified in Ch. 151.

(B) *Monuments*. Permanent monuments shall be placed in the ground as required by M.S. Ch. 505, as it may be amended from time to time, prior to the release of financial security for the completion of public improvements. Written notice shall be provided to the city certifying that the iron monuments have been installed.

(C) *Blocks*. Blocks shall be of a size to facilitate neighborhood development and to provide smooth traffic circulation. Block shapes and dimensions shall be set in accordance with the city design criteria.

(D) *Outlots*. Lots designated as outlots on the final plat will be understood to be unbuildable lots for purposes of this chapter and Ch. 111, and building permits will not be issued to outlots under Ch. 111.

(2013 Code, § 12.33) (Ord. 557, passed 10-14-1999; Ord. 792, passed 4-17-2008; Ord. 805, passed 9-11-2008)

§ 150.65 PARKS AND DEDICATIONS.

(A) *Purpose*.

(1) The City Council recognizes it is essential to the health, safety, and welfare of the residents of the city that the character and quality of the environment be considered to be of major importance in the planning and development of the city. In this regard, the manner in which land is developed and used is of high priority. The presentation of land for park, playground, public open space purposes, and trails as it relates to the use and development of land for residential, commercial, and industrial purposes is essential to the maintaining of a healthful and desirable environment for all residents of the city. The city must not only provide these amenities for our citizens today, the city must be mindful of our future citizens.

(2) The City Council should recognize that demand for park, playground, public open space, and trails within a municipality is directly related to density and intensity of development permitted and allowed within any given area. Urban type developments mean

greater numbers of people and higher demands for park, playground, public open space, and trails. To disregard this principle is to inevitably over-tax existing facilities and thus diminish the quality of the environment for all residents.

(B) *Standards for accepting dedication of land for public purposes*. It should be the policy of the city that the following standards and guidelines for the dedication of land for park, playground, and open space purposes (or cash contribution in lieu of such dedications) in the subdividing and developing of land within the city, shall be directly related to density and intensity of each subdivision and development.

(1) As a prerequisite to subdivision approval, subdividers shall dedicate land for parks, playgrounds, public open spaces, and trails and/or shall make a cash contribution to the City's Park Fund and Trail Fund as provided by this section.

(2) Land to be dedicated shall be reasonably 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 proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access, and location.

(3) The Parks and Recreation Advisory Board shall recommend to the Planning Commission and City Council the land dedication and cash contribution requirements for proposed subdivisions.

(4) Changes to the density of plats shall be reviewed by the Parks and Recreation Advisory Board for reconsideration of park dedication and cash contribution requirements.

(5) When a proposed park, playground, recreational area, school site, or other public ground has been indicated in the city's official map or comprehensive plan and is located in whole or in part within a proposed plat, it shall be designated as such on the plat and shall be dedicated to the appropriate governmental unit. If the subdivider elects not to dedicate an area in excess of the land required hereunder for such proposed site, the city may consider acquiring the site through purchase or condemnation.

(6) Land conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinance, and shall be in addition to and not in lieu of open space requirements for planned unit developments.

(7) In establishing the amount of land to be dedicated or preserved or the amount of the cash contribution, the city will give due consideration to the open space, recreational, or common areas and facilities proposed by the applicant to be open to the public.

(8) The city, upon consideration of the particular type of development, may require larger or lesser parcels of land to be dedicated if the city determines that present or future residents would require greater or lesser land for park and playground purposes.

(9) In residential plats, the city shall have a standard of 1 acre of park land for every 75 people. Thus, 1 acre of land shall be conveyed to the city as an outlot warranty for every 75 people the platted land could house based on the following population calculations.

Apartments, townhouses, condominiums, other multiple-family dwelling units	1 person per bedroom
Duplex-twin homes	3.0 persons per dwelling unit
Single-family detached dwelling lots	3.0 persons per lot

(10) In plats other than residential, the city hereby finds that, as a general rule, it requires that an amount of land equal to 10% of the buildable land proposed to be subdivided be dedicated or reserved to the public for public use for parks, playgrounds, trails, wetlands, or open space. "Buildable land" is determined by calculating the gross acreage of all land in the proposed subdivision in its pre-subdivided condition excluding wetlands as defined in § 151.002. Should the land to be dedicated have greater fair market value than the average fair market value in the plat, the city shall only be authorized to require dedication of an amount of land equal to 10% of the fair market value of all the property being platted.

(11) In lieu of park land dedication, the city may require an equivalent cash dedication based upon the average fair market value of undeveloped land that is, or under the city's adopted comprehensive plan, may be served by municipal sanitary sewer and water service. The cash dedication requirement shall be established annually by the City Council.

(12) In lieu of trail donation, trail construction, or trail easement dedication, the city may require a cash donation for the trail system. The cash dedication requirement shall be established annually by the City Council. Dedication for trails in the form of cash shall apply only to residential plats.

(13) The city may elect to receive a combination of land and cash for park use. The city shall determine the amount of land dedication it requires, and the cash contribution shall be calculated based on the percentage of unmet land dedication.

(14) Planned unit developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.

(15) Park and trail cash contributions are to be calculated based on the fees in place at the time of the final plat approval.

(16) The cash contributions for parks and trails shall be deposited in either the city's Park Development Fund or Multi-Purpose Pedestrian Fund and shall be used only for acquisition, improvement, development, or redevelopment of parks and trails.

(17) If a subdivider is unwilling or unable to make a commitment to the city as to the type of building that will be constructed on lots in the proposed plat, the land and cash contribution will be a reasonable amount determined by the City Council.

(18) Wetland, ponding areas, drainageways, and utility easements accepted by the city shall not be considered in the park land and/or cash contribution to the city.

(19) When a proposed trail has been indicated in the city's official comprehensive plan map, and it is located in whole or in part within the proposed plat, it should be designated on the plat and should be dedicated to the city. If the subdivider elects not to dedicate an area in excess of the land required for a trail, the city may consider acquiring it through condemnation.

(20) Required land dedication and/or payment of fees in lieu of land dedication shall be required at the time of recording the final plat.

(2013 Code, § 12.34) (Ord. 557, passed 10-14-1999; Ord. 720, passed 2-10-2005; Ord. 749, passed 3-16-2006; Ord. 768, passed 8-24-2006)

§ 150.66 LANDSCAPING.

(A) *Required*. Landscaping shall be provided for all land in a subdivision.

(B) *Design criteria*. Landscaping shall be designed and installed in accordance with Ch. 151 and city design criteria.

(2013 Code, § 12.35) (Ord. 557, passed 10-14-1999)

§ 150.99 PENALTY.

(A) A violation of this chapter occurs when:

(1) A person performs an act prohibited by or declared unlawful by this chapter;

(2) A person fails to act in accordance with this chapter when such action is required; and

(3) A person knowingly makes or submits any false statement or document in connection with any application or procedure required by this chapter.

(B) Upon conviction of a violation, such person shall be punished as for a misdemeanor.

(2013 Code, § 12.47) (Ord. 557, passed 10-14-1999)

CHAPTER 151: ZONING

Section

General Provisions

Zones and Districts

Shoreland Overlay Zone (SH)

Floodplain Overlay Zone (FP)

Performance Standards

GENERAL PROVISIONS

§ 151.001 TITLE, PURPOSE, AND INTERPRETATION.

(A) *Title*. This chapter shall be known and may be referred to as the "zoning ordinance" or the "zoning chapter". When referred to herein it shall be known as "this chapter".

(B) *Purpose*. This chapter is enacted to promote the public health, safety, and general welfare of the city through the following:

(1) Encouraging the planned and orderly development of residential, business, industrial, recreational, and public land;

(2) Providing adequate light, air, and convenience of access to property;

(3) Limiting congestion in the public right-of-way;

(4) Preventing overcrowding of land and undue concentration of population and structures;

(5) Providing for the compatible integration of land uses and the most appropriate use of land;

(6) Encouraging development in accordance with the city's comprehensive plan;

(7) Conserving the natural beauty and environmental assets of the city;

(8) Protecting water resources and water quality;

(9) Facilitating the provision of water, utilities, and sewage disposal to property as appropriate;

(10) Protecting the population from fire and other hazards to public safety; and

(11) Providing for the administration of this chapter and amendments to it, defining the powers and duties imposed by this chapter, and prescribing penalties for violation of its provisions.

(C) *Scope*. From and after the effective date of this chapter, the use of all land and all structures erected, altered, enlarged, or relocated, and every use accessory thereto, shall be in conformance with the provisions of this chapter. Any existing use, structure, lot, or development which was legally established, but is not in conformance with the provisions of this chapter, shall be regarded as nonconforming and may continue in existence only for such period of time and under such conditions as is provided for in § 151.017.

(D) *Application of rules*.

(1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare, and sound planning.

(2) Where any provision of this chapter is either more restrictive or less restrictive than a comparable provision imposed by any other code, ordinance, statute, or regulation of any kind, the more restrictive provision, or the provision which imposes a higher standard or requirement, shall prevail.

(3) No land shall be used, and no structure shall be erected, converted, enlarged, reconstructed, altered, removed, or used, for any purpose or in any manner which is not in conformity with the provisions of this chapter.

(4) Structures within the public right-of-way are not covered by the provisions of this chapter except as specifically provided in this chapter.

(5) Words or terms defined in this chapter shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this chapter. The present tense shall include the past and future tenses.

(E) *Common procedures.* The general provisions of this section shall apply to all applications for development approval and permit requests under this chapter, unless otherwise stated.

(1) *Authority to file applications.*

(a) *General.* Applications submitted under this chapter shall be submitted by the landowner; a person, business, or organization having rights in contract in the land; their authorized agent; the city council; the planning commission; or the administrator.

(b) *Applicant not the owner.* If the applicant is not the owner of the land, the owner's name and contact information must be included in the application.

(2) *Neighborhood meetings.*

(a) *General.* The purpose of the neighborhood meeting is to provide an opportunity for informal communication between applicants, occupants, and owners of nearby properties that may be affected by development proposals; to educate the occupants and owners about the proposed development and application; to receive comments and address concerns about the development proposal; and to resolve conflicts and outstanding issues, where possible.

(b) *Neighborhood meeting required.* A neighborhood meeting is required for all applications requiring a public hearing prior to submission of an application. Upon receiving an application requiring a public hearing, the administrator shall require an applicant to conduct a neighborhood meeting prior to a public hearing being scheduled. The Zoning Administrator or Planner (administrator) may waive this requirement in cases where there is no adjacent neighborhood that would be impacted by the application.

(c) *Applications requiring neighborhood meetings.* Unless a waiver is granted by the administrator, a neighborhood meeting shall be required to be conducted prior to consideration of the following applications:

1. Map amendment (rezoning);
2. Preliminary Plat;
3. Conditional Use Permit (CUP);
4. Comp Plan Amendments;

5. PUD;

6. Zoning Text Amendments;

7. Variances.

(d) *Procedure.* If a neighborhood meeting is convened, it should generally comply with the following procedures:

1. *Day, time and place.* The neighborhood meeting should be held during the hours of 6:00 p.m. to 9:00 p.m., Monday through Friday, at a place that is generally accessible to occupants of property in close proximity to the land subject to the application. Meetings may be held at a time and day different from above at the neighborhood's request. Meetings shall be held at least eight calendar days prior to the scheduled public hearing. Failure to do so may result in delay or denial of the application.

2. *Notification.* The applicant shall provide notification of the neighborhood meeting a minimum of seven business days in advance of the meeting by first class mail to: all owners and occupants within 500 feet of the land subject to the application; any neighborhood organization that represents citizens within that area; the planning staff; and the review board. The notification shall state the time and place of the meeting.

3. *Conduct of meetings.* At the neighborhood meeting, the applicant shall explain the development proposal and application; answer questions; and, address the ways in which to resolve the attendees' concerns. Within two days of the meeting, the applicant shall provide the city a list of those in attendance with a summary of the attendee's concerns.

(3) Public notification for Public Hearings to be held by the Planning Commission and Board of Adjustment and Appeals.

(a) *Content of mailed and published notice.* All mailed and published notices for public hearings shall:

1. Identify the case log number and the name of the applicant or the applicant's agent.

2. Indicate the date, time and place of the public hearing, or indicate the earliest date an administrative decision will be made.

3. Describe the site involved by street address, property identification number (or both) and nearest intersection.

4. Identify the current zoning district designation of the site subject to the application.

5. Describe the nature, scope and purpose of the application or proposal.

6. Indicate the date and hours of availability and describe in which department the application, staff report, and related materials may be inspected by the public.

7. Include a statement describing where interested members of the public and adjoining property owners may submit written comments or evidence prior to the public hearing, or an administrative decision.

8. Include a statement that interested members of the public and adjoining property owners may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

(b) *Mailed notice.* When the provisions of this chapter require that written or mailed notice be provided, the administrator shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:

1. All property owners of the land subject to the application;

2. Surrounding property owners whose address is known by reference to the latest ad valorem tax records: For applications subject to a public hearing, all property owners within 500 feet of the land subject to the application;

3. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The administrator shall certify that notice meeting the content requirements was mailed. A copy of the mailed notice shall be maintained in the office of the administrator for public inspection during normal business hours.

(c) *Published notice.*

1. When the provisions of this chapter require that notice be published, the administrator shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation in the city. The content and form of the published notice shall be consistent with the requirements of the Minnesota Code of Laws.

2. The administrator shall prepare a certificate affirming that published notice has occurred pursuant to the requirements of this subsection and include a copy of the published notice for the records.

(d) *Posted notice.*

1. When the provisions of this chapter require that notice be posted on the site subject of the application (§ 151.001(E)(2)(c)), notice shall comply with the following requirements:

a. Notice shall be posted on signs in a form established by the administrator.

b. The signs shall be placed by the applicant on the property that is subject to the application 15 days prior to the public hearing along each public street that abuts or transects the property, at intervals of not more than 500 feet.

c. The signs shall be posted in a manner that ensures visibility from public streets.

2. The applicant shall sign and provide to the administrator a notarized affidavit in a format provided by the city stating that posted notice has been provided in accordance with the requirements of this subsection. The affidavit shall be submitted to the administrator prior to the public hearing for the subject application.

3. The applicant shall ensure that the posted notice is maintained on the property until the completion of the public hearing on the application.

4. The signs shall be removed by the applicant within five days after the public hearing on the application.

(2013 Code, § 11.01) (Ord. 1, passed 4-1-1978; Ord. 377, passed 7-7-1994; Ord. 951, passed 11-15-2016)

§ 151.002 DEFINITIONS.

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

ACCESSORY USE. See ***USE, ACCESSORY***.

ADULT. A person 18 years of age or older.

ADULT DAY CARE. A program of services provided to functionally impaired adults for a period of less than 24 hours during the day. ***ADULT DAY CARE*** is intended to maintain functionally impaired adults in the community and to prevent or delay institutionalization.

ADULT DAY CARE CENTER. A facility that provides adult day care to functionally impaired adults on a regular basis for periods of less than 24 hours a day in a setting other than a participant's home or the residence of the facility operator.

AGRICULTURAL USE.

(1) The use of land for the growing or production of field crops, livestock, or livestock products, including, but not limited to, the following:

(a) Field crops such as barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers;

(b) Livestock such as dairy and beef cattle, goats, horses, ponies, sheep, hogs, poultry, game birds, dogs, deer, rabbits, mink, and bees; or

(c) Livestock products such as milk, butter, cheese, eggs, meat, fur, and honey.

(2) This term does not include the use of land as a commercial feed lot or for processing any agricultural product.

AIRPORT or ***HELIPORT.*** Any land or structure which is principally used or intended for use for the landing and takeoffs of aircraft, and any land or structure accessory thereto.

ALLEY. A public right-of-way which affords a secondary means of access to abutting property.

AREA IDENTIFICATION SIGN. See ***SIGN, AREA IDENTIFICATION***.

ASSISTED LIVING HOUSING FACILITY. A housing facility for persons who need assistance with their daily living needs, including special support services such as meal preparation, housekeeping, medical care, transportation, or cognitive needs assistance, including memory care assistance.

ATTACHED DWELLING. A building composed of more than 1 dwelling unit which share common wall(s). The individual dwelling units are designed for and occupied exclusively by 1 family.

BASEMENT. A portion of a building located wholly or partially below grade. For purposes of §§ 151.085 through 151.094 (Floodplain Overlay Zone), ***BASEMENT*** includes any area of a structure, including crawl spaces, having its floor or base below ground level on all 4 sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST INN. A building in which lodging and meals are provided for compensation and which is open to the traveling public for a stay not to exceed 30 days.

BILLBOARD. See ***SIGN, ADVERTISING***.

BLUFF. A topographic feature wholly or partially within the Shoreland Overlay Zone rising at least 25 feet above the ordinary high water level of the waterbody and having an average grade from the toe of the bluff to a point at least 25 feet above the ordinary high water level of at least 30% and which slope drains toward the waterbody. The term does not include any area which has an average slope of less than 18% over a distance of 50 feet or more.

BREWERY. A facility that produces for sale beer, ale, or other beverages made from malt by fermentation and containing not less than 1/2 of 1% alcohol by volume.

BREWPUB. A small brewery that operates a restaurant on the same premises as the brewery, whose malt liquor production per calendar year may be limited by Minnesota state statute.

BUILDING. Any structure having a roof which may provide shelter or enclosure for persons, animals, or things.

BUSINESS COMPLEX. A building or group of connected buildings containing 2 or more businesses.

CHURCH. Any establishment, together with its accessory structures and uses, in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

CLASS I RESTAURANT. See ***RESTAURANT, CLASS I***.

CLASS II RESTAURANT. See***RESTAURANT, CLASS II***.

CLINIC. Any establishment where human patients are examined or treated by licensed practitioners not involving overnight stays, For this purpose, ***LICENSED PRACTITIONERS*** includes physicians, dentists, osteopaths, chiropractors, optometrists, psychologists, therapists, and physical therapists.

CLUB. Any establishment operated for social, recreational, or educational purposes open only to members and not to the general public.

COMMERCIAL RECREATION.

(1) ***MAJOR.*** A structure or open space designed, constructed, and operated by private enterprise for recreational purposes and open to the general public. The minimum area shall be 150 acres on either 1 lot or contiguous parcels under 1 ownership, in which 50% of the lot or parcels are permanently developed. The facility shall abut a street designated in the comprehensive plan as a principal arterial, minor arterial, or collector street. Such facilities may include amusement parks, Class A licensed horse racetracks, and similar enterprises.

(2) ***MINOR.*** A structure or open space designed, constructed, and operated by private enterprise for recreational purposes and open to the general public. The facility must meet the minimum lot size of the zone. ***MINOR COMMERCIAL RECREATION FACILITIES*** shall be all commercial recreation facilities which do not meet the standards of a major commercial recreation facility. Such facilities may include bowling alleys, tennis courts, campgrounds, and similar uses.

COMMERCIAL VEHICLE. See ***VEHICLE, COMMERCIAL***.

COMMUNICATION SERVICE DEVICE(S)/APPARATUS. Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips.

COMMUNICATION SERVICES. Licensed commercial wireless communication services including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging, and similar services.

COMPREHENSIVE PLAN. The compilation of the goals, policy statements, standards, programs, and maps for guiding the physical, social, and economic development, both public and private, of the city and its environs, as most recently adopted by the City Council and approved by the Metropolitan Council. The term includes any unit or part of such plan and any amendment thereto.

CONDITIONAL USE. See ***USE, CONDITIONAL***.

CORNER LOT. See ***LOT, CORNER***.

DAY CARE FACILITY. A facility licensed by the state to provide care for a child outside of the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day. For this purpose, a ***CHILD*** is a person who is under 18 years of age.

DETACHED DWELLING. A dwelling unit having open space on all sides.

DIRECTIONAL SIGN. See ***SIGN, DIRECTIONAL***.

DISTILLERY. A facility that produces ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for non- industrial use.

DWELLING. A building or portion thereof designed for residential purposes and providing complete living facilities for 1 family.

DWELLING, DETACHED. A dwelling unit having open space on all sides.

DWELLING, MULTIPLE-FAMILY. A dwelling unit which shares 1 or more common walls, as well, as common ceiling and/or floor with adjoining dwelling unit(s), which is designed for and occupied exclusively by 1 family, and which does not have separate access to the outdoors.

DWELLING, SINGLE-FAMILY. A dwelling unit which has open space on all sides and is designed for and occupied exclusively by 1 family.

DWELLING, SINGLE-FAMILY ATTACHED. A dwelling unit sharing 1 or more common walls with an adjoining dwelling unit, which is designed for and occupied exclusively by 1 family, and which has separate access to the outdoors.

EASEMENT. A grant by a property owner of the use of land by the public or appurtenant to another property for a specific purpose or purposes.

EXISTING. Any structure or use which was in place or for which a building permit had been issued, and any lot which had been preliminarily platted, as of the effective date of this chapter. In order to have an existing lot for a two-family dwelling, the lot must have 2 sanitary sewer stubs.

EXTERIOR STORAGE or ***OPEN STORAGE.*** The storage of goods, materials, equipment, manufactured products, or similar items, not fully enclosed by a building, on a 24-hour-a-day basis for at least 7 days per year.

FAMILY. Any number of individuals related by blood, marriage, or adoption, or up to 4 individuals not so related living together as a single housekeeping unit.

FARM WINERY. A winery operated by the owner of a state farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota. A ***FARM WINERY*** may include a tasting room.

FENCE. Any partition, structure, wall, or gate erected as a dividing marker, barrier, or enclosure and located along a property boundary, or within a lot.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake which results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood state or discharge may be equalled or exceeded.

FLOOD FRINGE. That portion of the floodplain outside of the floodway. ***FLOOD FRINGE*** is synonymous with the term ***FLOODWAY FRINGE*** used in the flood insurance study for the city.

FLOODPLAIN. The bed of a wetland or lake, or the channel of a watercourse, and areas adjoining the bed or channel, which have been or hereafter may be covered by the regional flood.

FLOOD-PROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls. The term shall include basements, but not porches, balconies, breezeways, or attic areas having a head room of less than 7 feet 6 inches.

FLOOR AREA RATIO. The numerical value obtained through dividing the floor area of a building by the area of the lot or parcel of land on which such building is located.

FREE STANDING SIGN. See ***SIGN, FREE STANDING***.

FRONTAGE. That boundary of a lot which abuts an existing or dedicated street.

FRONT LOT LINE. See ***LOT LINE, FRONT***.

FRONT YARD. See ***YARD, FRONT***.

FUNCTIONALLY IMPAIRED ADULT. An adult having a condition that includes:

(1) Having substantial difficulty in carrying out 1 or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(2) Having a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; and

(3) Requiring support to maintain independence in the community.

GARAGE. An accessory building or portion of a principal building, which is used primarily for storing personal vehicles.

GOVERNMENT SIGN. See ***SIGN, GOVERNMENT***.

GROUP FAMILY DAY CARE FACILITY. Any facility licensed by the state to provide day care for no more than 14 children at any 1 time, including all children of the care giver when the children are present at the facility. For this purpose, ***CHILDREN*** are persons who are under 18 years of age.

HEIGHT. For a building, ***HEIGHT*** is the vertical distance between the ground and the top of the cornice of a flat roof, a point on the roof directly above the highest wall of a shed roof, or one-half the distance between the lowest eave in the highest roof section and the top of the highest gable on a pitched or hip roof. For any other structure, ***HEIGHT*** shall be the vertical distance between the ground and the highest point of the structure. For new construction, the ground level shall be the original or pre-construction average ground elevation adjoining the structure's footprint; for existing construction, the ground level shall be the average ground elevation of the structure.

HOME OCCUPATION. Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit or an accessory building.

HOTEL. A building, other than a bed and breakfast inn, used as a temporary residence by the traveling public, in which ingress and egress to and from all rooms is made through an inside lobby.

ILLUMINATED SIGN. See ***SIGN, ILLUMINATED***.

IMPERVIOUS SURFACE PERCENTAGE. The area of any lot covered by material which is impervious to penetration by water, divided by the total lot area.

INSTITUTIONAL SIGN. See ***SIGN, INSTITUTIONAL***.

INTERIOR LOT. See ***LOT, INTERIOR***.

JUNKYARD. Any area where used, waste, discarded, or salvage materials are bought, sold, exchanged, stored, baled, cleaned, patched, disassembled, or handled; including scrap iron and other metals, paper, rags, rubber products, bottles, and used construction materials, but excluding refuse or the storage of material in conjunction with construction or a manufacturing process.

LANDSCAPING. Plantings such as trees, grass, or shrubs.

LOADING SPACE. A space accessible from a street, alley, or driveway for the use of vehicles while loading or unloading merchandise or materials.

LOT. An area, parcel, or tract of land which was created or is recognized as a lot under Ch. 150.

LOT AREA. The area of a lot on a horizontal plane bounded by the lot lines, excluding dedicated rights-of-way.

LOT, CORNER. A lot situated at the junction of, and abutting on 2 or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

LOT DEPTH. The mean horizontal distance between the front lot line and the rear lot line.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINE. A line bounding a lot, except that where any portion of a lot extends into a street, the line of such street shall be the ***LOT LINE***.

LOT LINE, FRONT. The boundary of a lot which abuts a street. In the case of a corner lot, the term shall mean the shortest dimension abutting a street. For any lot other than a corner lot which abuts more than 1 street, all boundaries abutting and parallel to the streets shall be ***FRONT LOT LINES***.

LOT LINE, REAR. The boundary of a lot which is opposite or most distant from the front lot line.

LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.

LOT WIDTH. The horizontal distance between the side lot lines of a lot measured parallel to the front lot line and at the building setback line.

MALT LIQUOR. Any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of 1% alcohol by volume.

MANUFACTURED HOME. Any structure, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

MICRO-DISTILLERY. A facility that produces ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use not to exceed 40,000 proof-gallons per calendar year.

MINING. The extraction of sand, gravel, rock, soil, or other material from a parcel of land in an amount exceeding 1,000 cubic yards, and the removal of said material from the site with or without processing. The term ***MINING*** shall not include removal of materials in accordance with a building permit, grading permit, public improvement project, or other project receiving prior review and approval by the city.

MOTEL. A building or group of buildings other than a hotel or bed and breakfast inn used as a temporary residence by the traveling public.

MULTIPLE-FAMILY DWELLING. A residential structure composed of 3 or more dwelling units which may share common walls, ceilings, floors, or any combination thereof. Each dwelling unit shall be designed for and occupied exclusively by individual families living independently of each other.

MURAL SIGN. See ***SIGN, MURAL***.

NAMEPLATE SIGN. See ***SIGN, NAMEPLATE***.

NONCONFORMITY. Any land, use, or structure lawfully existing on the effective date of this chapter which does not comply with all the requirements of this chapter or any amendments hereto governing the zone in which such land, use, or structure is located.

NON-RIPARIAN. Not located on the bank of a natural watercourse.

NOXIOUS MATTER. Matter capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSING HOME. Any institution or facility required to be licensed as such by the State Commissioner of Health under M. S. Ch. 144A, as it may be amended from time to time.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or other 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.

OFFICE SHOWROOM. A facility in which the handling of information or the performing of administrative services is conducted as a principal use; including services provided to persons both on-site and off-site on a walk-in or appointment basis. Up to 25% of the gross floor area of the structure may be used for the display of merchandise and equipment, and its sale to a customer where delivery of purchased merchandise is made directly to the ultimate consumer from a warehouse.

OPAQUE. At least 80% of the view from the opposite side is blocked, when observed from a point perpendicular to the opaque material, fence, or wall.

OPEN SALES LOT. Land devoted to the display of goods for sale, rent, trade, or advertising purposes, where such goods are not enclosed within a building, on a 24-hour-a-day basis for at least 7 days per year.

OPEN STORAGE. See ***EXTERIOR STORAGE***.

ORDINARY HIGH WATER LEVEL. The boundary of public waters or wetlands at an elevation delineated by the State Department of Natural Resources as 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*** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ***ORDINARY HIGH WATER LEVEL*** is the operating elevation of the normal summer pool.

OVERLAY ZONE. See ***ZONE, OVERLAY***.

PARKING SPACE. A suitably surfaced and permanently maintained area on privately owned property, either within a building or outside.

PERFORMANCE STANDARDS. Criteria established to control noise, odor, dust, fumes, toxic or noxious matter, vibration, fire or explosive hazards, glare, heat, or other characteristics generated by or inherent in uses of land or structures.

PERMITTED USE. See ***USE, PERMITTED***.

PERSONAL VEHICLE. See ***VEHICLE, PERSONAL***.

PLANNED UNIT DEVELOPMENT. A process used to acquire approvals for a project or development which requires the preparation of plans as specified herein and, upon approval of said plans by the city, establishes the land use pattern; the density or intensity of use; yard, lot coverage, landscaping, building height, and spacing requirements; the architectural character of the project; pedestrian and vehicular system locations; outdoor storage; loading, signage, parking, and open space requirements and locations; and such other requirements as are deemed necessary and appropriate for the area encompassed by the planned unit development.

PORTABLE SIGN.See ***SIGN, PORTABLE***.

POWER GENERATION FACILITY. A power station, powerhouse, power generation plant or similar facility, other than a wind energy or solar energy conversion system or facility, that produces or generates electric power.

PRINCIPAL USE. See ***USE, PRINCIPAL***.

PUBLIC BUILDING. Any structure sheltering or enclosing a governmental use or activity.

PUBLIC INFORMATION SIGN. See ***SIGN, PUBLIC INFORMATION***.

PUBLIC RECREATION. Any use commonly provided for and open to the public at parks, playgrounds, community centers, or other similar sites owned or operated by a unit of government for the purpose of providing recreation.

REACH. A longitudinal segment of a stream or river influenced by a natural or human-made obstruction.

REAR LOT LINE. See ***LOT LINE, REAR***.

REAR YARD. See ***YARD, REAR***.

RECREATIONAL EQUIPMENT. Any structure, device, or furnishing used for recreational purposes which is not larger than 600 square feet or 4,000 cubic feet including, but not limited to, swing sets and slides, sandboxes, picnic tables, jungle gyms, and similar items.

RECREATIONAL VEHICLE. See ***VEHICLE, RECREATIONAL***.

REGIONAL FLOOD. 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. ***REGIONAL FLOOD*** is synonymous with the term ***BASE FLOOD*** used in the flood insurance study for the city.

REGULARLY or ***ON A REGULAR BASIS.*** The provision of day care services to 1 or more persons for a cumulative total of more than 30 days within a 12-month period. Provision of services for any part of a calendar day shall constitute provision of service for the entire calendar day.

REGULATORY FLOOD PROTECTION ELEVATION. The elevation no lower than 1 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.

RESIDENTIAL FACILITY. A facility licensed by the state to provide 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habitation, or treatment outside a person's own home. For this purpose, a person is any individual under 18 years of age or an individual who is 18 years of age or older and who has mental illness, mental retardation or a related condition, a physical handicap or a functional impairment, or who is chemically dependent or abuses chemicals.

RESTAURANT, CLASS I. An establishment serving food to customers while seated at a counter or table and which does not serve alcoholic beverages or provide live entertainment.

RESTAURANT, CLASS II. An establishment serving food to customers which is not a Class I restaurant.

RETAIL. The sale of goods or services directly to the ultimate consumer.

RETAIL CENTER. A commercial area containing 1 or more retail establishment(s) with a total building area in excess of 50,000 square feet.

RIPARIAN. Located on the bank of a natural watercourse.

SALES TRAILERS. A recreational vehicle, modular structure, or other similar structure used for the purpose of marketing homes, commercial, or industrial space.

SANDWICH BOARD SIGN. See ***SIGN, FREE STANDING***.

SETBACK. The minimum horizontal distance between a structure and a lot line, ordinary high water level, or other specified item.

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; or 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such a river or stream, whichever is greater. The limits of the ***SHORELAND*** may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward from the water for lesser distances and when approved by the Commissioner of the State Department of Natural Resources.

SIDE LOT LINE. See ***LOT LINE, SIDE***.

SIDE YARD. See ***YARD, SIDE***.

SIGN. Any letter, work, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication whether painted, pasted, printed, affixed, or constructed which is displayed in view of the general public for informational or communicative purpose.

SIGN, ADVERTISING. Any non-governmental sign located outdoors which advertises or directs attention to a business, profession, product, service, commodity, entertainment, event, or other activities not necessarily offered, sold, or rented upon the premises where the sign is located or to which it is attached.

SIGN, ALPHA/NUMERIC MONOCHROME. A sign or portion of a sign that can display electronic non-pictorial text. In the case of gas stations, pricing boards for gasoline/diesel shall not be counted toward allowable signage area.

SIGN AREA. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface This excludes any supports, uprights, or structures on which any sign is supported unless such supports, uprights, or structures are an integral part of the display or sign. Where the sign is double-faced, the ***SIGN AREA*** shall be calculated by measuring only 1 of the faces, meaning that the maximum sign area allowed shall be permitted on each face of the sign. Where the sign has more than 2 sides, all faces shall be limited to the total area permitted on double-faced signs, meaning that the total sign area allowed will decrease with additional faces.

SIGN, AREA IDENTIFICATION. A free standing sign, located at the entrance to or within the identified premises, which identifies the name of a neighborhood, residential subdivision, multiple-family residential complex, shopping center or area, industrial area, office complex, planned unit development, or any combination of the above, but which does not advertise any business within the area.

SIGN, DIRECTIONAL. A sign erected on private property for the purpose of directing vehicular and pedestrian traffic to facilities or functions open to the general public.

SIGN, ELECTRONIC MESSAGE CENTERS. A sign or portion of a sign that can electronically display any combination of words, graphics, pictorial text, and multiple colors. In the case of gas stations, pricing boards for gasoline/diesel shall not be counted toward allowable signage area.

SIGN, FLASHING. A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts, and creates the illusion of intermittent flashing light by streaming, graphic bursts, showing movement, or any mode of lighting which resembles zooming, twinkling, or sparkling.

SIGN, FREE STANDING. A sign which is placed in the ground and not affixed to any part of any structure. A ***FREE STANDING SIGN*** may be of any of the following types:

(1) ***FREE STANDING GROUND SIGN.*** A sign which is mounted on free standing shafts, posts, or walls which are 7 feet or less in height and are attached to the ground;

(2) ***FREE STANDING PYLON SIGN.*** A sign which is mounted on free standing shafts, posts, or walls which extend more than 7 feet in height and are attached to the ground; and

(3) ***SANDWICH BOARD SIGN.*** A sign which has 2 single face areas that are attached on only 1 end so as to create a triangular stance, but which is not permanently affixed to the ground.

SIGN, GOVERNMENT. A sign which is erected by or with the approval of a governmental unit.

SIGN, ILLUMINATED. A sign which has an artificial light source directed upon it or 1 which has an interior light source.

SIGN, INSTITUTIONAL. A sign or bulletin board which identifies the name and other characteristics of a public or private institution on the site where the sign is located.

SIGN, MURAL. Any mural or pictorial scene painted or attached on the wall of a structure or painted on a sign board affixed to a wall, and which has as its primary purpose artistic effect and an ideological or non-commercial message.

SIGN, NAMEPLATE. A sign indicating the name of a building, building occupant, development, project, or any sign which serves as a directory of building occupants.

SIGN, PORTABLE. A sign so designed as to be movable from 1 location to another and which is not permanently attached to the ground or any structure.

SIGN, PUBLIC INFORMATION. A sign conveying information of general interest to the public, such as time, temperature, date, atmospheric conditions, or upcoming civic, community, cultural, social, or athletic events.

SIGN, TEMPORARY. Any sign intended to be displayed for a limited period of time only.

SIGN, WALL. Any sign which is attached or affixed to the exterior wall of any building, and projects from the wall 18 inches or less.

SIGN, WINDOW. A sign attached to, placed upon, or painted on the interior or exterior of a window or door of a building and which is intended for viewing from the exterior of such building.

SILO. A vertical, cylindrical structure, made of reinforced concrete, steel, timber, or materials which comply with building codes, used for storing grain, cement, or other materials necessary to the conduct of operations with a permitted or conditional permitted use in a specified zoning district.

SINGLE-FAMILY DWELLING. A residential structure designed for and occupied exclusively by 1 family.

SMALL BREWERY. A brewery that produces no more than 20,000 barrels of malt liquor in a calendar year.

STREET. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties.

STRUCTURE. Anything constructed or erected, the use of which requires a location on, below, or above, the ground, or attached to something having a location on the ground, including signs and fences.

SUBDIVISION. The creation of 1 or more lots under the provisions of Ch. 150.

TAPROOM. An area for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises of or adjacent to 1 brewery location owned by the brewer. A ***TAPROOM*** may also include sales for off-premises consumption of malt liquor produced at the brewery location or adjacent to the ***TAPROOM*** and owned by the brewer for off-premises consumption, packaged subject to M.S. § 340A.301, subd. 7(b), as it may be amended from time to time, or its successor.

TASTING ROOM, WINERY/DISTILLERY. An area for the on-sale consumption of distilled spirits or wine produced on the premises of, or adjacent to 1 winery or 1 distillery and in common ownership to the producer of the wine or distilled spirits. The tasting room area may include sales for off-premises consumption of products produced by the owner of the winery or distillery location if permissible by state law.

TAVERN. An establishment where the primary business is the on-premises sale and consumption of alcoholic beverages and where the incidental sale of food for consumption on the premises may also occur.

TEMPORARY SIGN. See ***SIGN, TEMPORARY***.

TOE OF THE BLUFF. The lower point of a 50 feet segment with an average slope exceeding 18%.

TOP OF THE BLUFF. The higher point of a 50 feet segment with an average slope exceeding 18%.

TOWER. Any pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masks; intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

TOWNHOUSE. A residential structure consisting of 2 or more contiguous dwelling units, sharing only common walls, each having access through separate individual entrance/exits adjacent to a lot line, and each having separate garage/storage areas.

TWO-FAMILY DWELLING. A residential structure composed of no more than 2 dwelling units which may share common walls, ceilings, floors, or any combination thereof. Each dwelling unit shall be designed for and occupied exclusively by individual families living independently of each other.

USE. The purpose or activity for which the land or structure thereon is designated, arranged, or intended, or for which it is occupied or maintained.

USE, ACCESSORY. A use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

USE, CONDITIONAL. A use which is generally permitted within the zone, but which requires special review and limitations because if not carefully located or designed may have a detrimental impact on neighboring properties or the city.

USE, INTERIM. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit the use.

USE, PERMITTED. A use which may be lawfully established in a zone provided it conforms with all requirements, regulations, and performance standards of such zone.

USE, PRINCIPAL. The main use of land or a structure, as distinguished from a subordinate or accessory use.

UTILITY SERVICES. Services supplying gas, electric, transportation, water, sewer, cable, or land line telephone service to the general public.

UTILITY SERVICE STRUCTURES. Any building or structure necessary for the operation of public or private utility services.

VARIANCE. A modification or relaxation 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 an undue hardship, or that strict conformity with the provisions of this chapter would be unreasonable, impractical, or unfeasible under the circumstances.

VEHICLE. Any device in, upon, or by which any person or property is or may be transported or drawn upon a street, except devices used exclusively upon stationary rails or tracks.

VEHICLE, COMMERCIAL. Any vehicle other than a personal vehicle or recreational vehicle.

VEHICLE, PERSONAL. Any self-propelled vehicle designed and used for the carrying of not more than 15 persons, including the driver, truck with a rated carrying capacity of 1 ton or less, motorcycle, or motorbike.

VEHICLE, RECREATIONAL. Any self-propelled vehicle or vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including, but not limited to, RVs, campers, snowmobiles, trail bikes, or other all-terrain vehicles, boats, hovercrafts, or motor vehicles licensed for highway operation which may be used for off-road recreational purposes.

WALL SIGN. See ***SIGN, WALL***.

WETLAND. Land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, as defined in M.S. § 103G.005, subd. 19, as it may be amended from time to time.

WHOLESALE. The sale of goods to an intermediary for resale to another intermediary or to the ultimate consumer.

WINDOW SIGN. See ***SIGN, WINDOW***.

YARD. An open space on a lot surrounding a principal structure, which is unoccupied and unobstructed from the ground to the sky, except by landscaping or an eave not exceeding 24 inches in width.

YARD, FRONT. The yard extending the width of the lot from the front lot line to the building setback line.

YARD, REAR. The yard extending the width of the lot extending from the rear lot line to the rear yard setback line.

YARD, SIDE. The yard extending along the side lot line between the front and rear yards, extending perpendicularly from the side lot line to the side yard setback line.

ZONE. An area or areas within the city for which the regulations and requirements of this chapter governing uses, lot, and bulk of structures and premises are uniform.

ZONE, OVERLAY. A zone whose regulations and requirements are added to the regulations and requirements of another zone, in order to address particular topographic or development concerns.

ZONING ADMINISTRATOR. The duly appointed person charged with enforcement of this chapter, or that person's designee.

(2013 Code, § 11.02) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 36, passed 1-17- 1980; Ord. 35, passed 1-31-1980; Ord. 158, passed 1-31-1985; Ord. 159, passed 2-28-1985; Ord. 206, passed 9-11-1986; Ord. 226, passed 6-17-1988; Ord. 36, passed 1-17-1989; Ord. 264, passed 5-26-1989; Ord. 275, passed 9-22-1989; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 467, passed 12-19-1996; Ord. 474, passed 2-6-1997; Ord. 479, passed 3-3-1997; Ord. 482, passed 5-15- 1997; Ord. 497, passed 9-4-1997; Ord. 505, passed 1-1-1998; Ord. 520, passed 7-16-1998; Ord. 549, passed 6-3-1999; Ord. 554, passed 7-6-1999; Ord. 563, passed 11-25-1999; Ord. 609, passed 8-30- 2001;Ord. 703, passed 3-27-2008; Ord. 859, passed 9-6-2012; Ord. 639, passed 9-12-2002; Ord. 778, passed 5-17-2007; Ord. 808, passed 9-25-2008; Ord. 865, passed 3-5-2013; Ord. 877, passed 12-3-2013; Ord. 909, passed 8-18-2015; Ord. 922, passed 11-17-2015; Ord. 953, passed 11-20-2016)

§ 151.003 ZONING MAP.

(A) *Adopted*. The zoning map, as provided in TSO Table I, is appended to this chapter and is hereby adopted by reference as though shown in all details herein. The boundaries of the zones are established as shown on the zoning map. The zoning map shall be

kept on file in the office of the Zoning Administrator and shall be referred to as the "zoning map". The map and all of the notations, references, and other information shown thereon shall have the same force and effect as if fully set forth herein. All subsequent changes in zoning shall be shown on the zoning map.

(B) *Governs*. All property within the city shall have the zoning designation shown on the zoning map. If there is any discrepancy or inconsistency between the zoning map and any other map, ordinance, or source which purports to indicate the zoning of property, the zoning map shall take precedence.

(C) *Intention*. Zone boundary lines shown on the zoning map are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, the centerlines of railroad rights-of-way, the center of watercourses, or the corporate limits of the city, unless otherwise indicated. Where a zone boundary line divides a lot which was in single ownership at the time of enactment of this chapter and places portions of such lot in 2 or more zones, any portion of such lot within 50 feet on either side of the dividing zone boundary line may be used for any use allowed in either zone; provided, however, if any portion of such lot shall extend beyond the 50 feet limitation, the zone line as shown shall prevail.

(D) *Floodplain Overlay Zone*. The boundaries of the Floodplain Overlay Zone shall be determined by scaling distances on the zoning map. Where interpretation is needed as to the exact location of the boundaries of the zone, or where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data.

(E) *Interpretation*. The Zoning Administrator shall interpret the zoning map and the exact location of the zone boundary lines by reference to evidence of the intent of the City Council. Any party aggrieved by an interpretation of the Zoning Administrator under this section may appeal the Zoning Administrator's decision to the Board of Adjustment and Appeals as outlined in § 151.016.

(F) *Annexation*. The zoning designation of any area annexed to the city shall remain the same as approved by the governing body with previous jurisdiction over the annexed area, and shall remain in force until modified by the City Council. (Zoning map amendments are listed in Table of Special Ordinances, Table I.)

(2013 Code, § 11.03) (Ord. 31, passed 10-25-1979; Ord. 163, passed 3-28-1985; Ord. 377, passed 7-7-1994)

§ 151.004 ZONES.

(A) For the purpose of this chapter, the city is hereby divided into the following zones:

(1) Agricultural Preservation (AG);

(2) Rural Residential (RR);

(3) Low-Density Residential (R-1A);

(4) Urban Residential (R-1B);

(5) Old Shakopee Residential (R-1C);

(6) Medium-Density Residential (R-2);

(7) Multiple-Family Residential (R-3);

(8) Highway Business (B-1);

(9) Office Business (B-2);

(10) Central Business (B-3);

(11) Major Recreation (MR);

(12) Light Industry (I-1);

(13) Heavy Industry (I-2);

(14) Planned Unit Development Overlay (PUD);

(15) Mining Overlay (MIN);

(16) Shoreland Overlay (SH);

(17) Floodplain Overlay (FP); and

(18) Old Shakopee Business Overlay (B-1C).

(B) Unless the context clearly indicates to the contrary, reference in this chapter to residential zones includes AG, RR, R-1A, R-1B, R-1C, R-2, and R-3; reference to business zones includes B-1, B-2, B-3, and MR; and reference to industry zones includes I-1 and I-2.

(2013 Code, § 11.20) (Ord. 31, passed 10-25-1979; Ord. 204, passed 7-31-1986; Ord. 215, passed 3-12-1987; Ord. 377, passed 7-7-1994)

§ 151.005 WATER SURFACE USE ZONING.

(A) *Statutory authorization*. As authorized by M.S. §§ 86B.201, 86B.205, and 459.20, as they may be amended from time to time, and Minn. Rules 6110.3000 through 6110.3800, as now in effect and as hereafter amended, this section is enacted for the purpose and with the intent to control and regulate the use of the waters in the city, said bodies of water being located entirely within the boundaries of the city, to promote it fullest use and enjoyment by the public in general and the citizens of the city in particular, to ensure safety for persons and property in connection with the use of said waters; to harmonize and integrate the varying uses of said waters; and to promote the general health, safety, and welfare of the citizens of the city.

(B) *Definitions*. Terms used in this section related to boating are defined in M.S. § 86B.005, as it may be amended from time to time.

(C) *Surface zoning of natural environment lakes by restricting motorized watercraft.*

(1) The use of motorized watercraft (including, but not limited to, boats powered by inboard and outboard motors and jet skis) is prohibited on natural environment lakes.

(2) ***NATURAL ENVIRONMENT LAKES*** are defined by the Minn. Rules 6120.3300 and listed in § 151.068(A)(2). As of June 22, 2009 natural environment lakes include the following lakes within Shakopee: Blue Lake; Dean Lake; Fisher Lake; Rice Lake; and Lake ID No. 70-0080. This list may be revised based on adjustments to the city municipal boundaries or modifications to state regulations defining natural environment lakes.

(D) *Enforcement*. The primary responsibility for enforcement of this section shall rest with the City Police Department.

(E) *Exemptions*. All authorized resource management, emergency, and enforcement personnel, while acting in the performance of their assigned duties are exempt from the foregoing restrictions.

(F) *Notification*. It shall be the responsibility of the city to provide for adequate notification of the public, which shall include placement of a sign at each natural environment lake outlining the provisions of this section, as well as the placement of necessary signs.

(2013 Code, § 11.55) (Ord. 822, passed 8-6-2009)

§ 151.006 ADMINISTRATION AND ENFORCEMENT.

(A) *Enforcing officer*. This chapter shall be administered and enforced by the Zoning Administrator in accordance with its terms, who shall not permit any construction, use, or change of use which does not conform to this chapter. The Zoning Administrator may designate such additional persons as may be necessary or convenient to assist in administering and enforcing this chapter.

(B) *Duties of the Zoning Administrator*. The Zoning Administrator's duties shall include the following:

(1) Determine that all building permits comply with the terms of this chapter;

(2) Conduct inspections of buildings and uses of land to determine compliance with the terms of this chapter;

(3) Maintain records of all zoning maps, amendments, conditional uses permits, variances, appeals, and other matters regulated by this chapter;

(4) Administer all applications under this chapter;

(5) Institute appropriate enforcement proceedings and actions against violators;

(6) Serve as staff advisor to the Planning Commission and the Board of Adjustment and Appeals;

(7) Prepare reports and information for the Planning Commission and the Board of Adjustment and Appeals, and may attend their meetings and participate in their hearings and discussions, but shall not vote on any item before the Planning Commission or the Board of Adjustment and Appeals; and

(8) Perform such other functions as may be necessary to enforce and administer this chapter.

(C) *Notice*. Failure to give notice or to give adequate notice when such is required by this chapter shall not invalidate any proceeding; provided, that a good faith attempt has been made to comply with the notice requirement.

(D) *Fees*. The fees required by this chapter shall be those specified in the most recent fee schedule adopted by the City Council. Fees are payable at the time of submission of an application and no application shall be deemed to be complete until the fee has been paid. The fee may be waived by the City Council in the case of applications filed in the public interest by the Planning Commission or City Council.

(2013 Code, § 11.80) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 377, passed 7-7-1994)

§ 151.007 GENERAL REGULATIONS.

(A) *Development standards*.

(1) *Frontage required*. A platted lot or parcel of land shall not be developed unless it has frontage on a street or has access approved through a planned unit development.

(2) *Sewage*. A platted lot or parcel of land shall not be developed unless a safe and adequate sewage treatment system can be installed to serve any building.

(3) *Setbacks from streets*. On corner lots or other lots abutting 2 or more streets, the required front yard setback shall be provided for each side abutting a street. The front yard shall be the side with the shortest street frontage. In the Rural Residential (RR), Low-Density Residential (R-1A), Urban Residential (R-1B), and Medium-Density Residential (R-2) Zones, the required setback shall be reduced by 10 feet in any yard abutting a street other than the front.

(B) *Accessory structures*.

(1) *Constructed after principal building*. No accessory structure shall be constructed on any residential lot prior to the construction of the principal building to which it is accessory,

(2) *Size*.

(a) Except in the Agricultural Preservation (AG) Zone, no accessory structure shall exceed the height of the principal building or 15 feet in a residential zone, whichever is less. In the Low-Density Residential (R-1A), Urban Residential (R-1B), Old Shakopee Residential (R-1C), Medium-Density Residential (R-2), and Multiple-family Residential (R-3) Zones, no accessory building shall exceed 10% of the lot area or exceed 75% of the square footage of the footprint of the principal dwelling, whichever is less.

(b) A conditional use permit is required to exceed the above size requirements in the Old Shakopee Residential (R-1C) Zone. A variance procedure is applicable in all other districts.

(3) *Front yard setback*. Each accessory structure shall be setback at least as far as the principal building on the lot. In the Agricultural Preservation (AG) and Rural Residential (RR) Zones, no accessory structure may be located closer to the front lot line than the principal buildings or 200 feet, whichever is less.

(4) *Side and rear yard setbacks*.

(a) An accessory structure shall be setback a minimum of 5 feet from the side or rear lot line, except in the Old Shakopee Residential (R1-C) Zoning District, where an accessory structure can be setback 3 feet on 1 side and 7 feet on the other side.

(b) A garage shall be setback a minimum of 20 feet from the lot line abutting the street or alley where the driveway takes access.

(C) *Required yards and open space*.

(1) No required yard or other open space allocated to one building shall be used to satisfy yard or open space requirements for any other building.

(2) The following shall not be considered to be encroachments on yard requirements:

(a) Structural or decorative building elements, provided they do not extend more than 2 feet into a yard;

(b) Yard lights and name plate signs;

(c) Terraces, steps, and similar structures, which are setback a minimum of 5 feet from any side lot line and/or 10 feet from the rear property line; and

(d) Decks which do not exceed 5 feet in height from the ground to the bottom of the floor joists measured at the building wall, which are setback a minimum of 5 feet from any side lot line and/or 10 feet from the rear property line, except in the Old Shakopee Residential (R1-C) Zoning District when the setback from the side lot line is 3 feet on one side and 7 feet on the other side. Decks located in the Low-Density Residential (R-1A), Urban Residential (R-1B), Old Shakopee Residential (R-1C), Medium- Density Residential (R-2) Zoning Districts, and townhouse structures located in any zoning district, which exceed 5 feet in height, shall be allowed to be located 10 feet closer to the rear property line than is required by the design standards of the zoning district in which the deck is located. Double frontage lots (lots with frontage on 2 parallel streets), shall be excluded from this provision due to the additional depth required of these lots.

(3) Buildings may be excluded from side yard requirements if party walls are utilized, and the adjacent buildings are planned to be constructed as an integral structure.

(D) *Utility services*. Utility services and utility service structures are exempt from the application of this chapter when located within public easements.

(E) *Number of buildings per lot*. Only one principal building shall be located on a lot, unless the lot is subject to a planned unit development or has a conditional use permit for a development containing more than one principal structure per lot.

(F) *Project review*. Land use applications (including, but not limited to, conditional use permits, variances, re-zonings, and planned unit developments) shall be accepted by the city for property that is the subject of an environmental assessment worksheet (EAW) or environmental impact statement (EIS), but said land use application shall be incomplete due to the environmental review and shall not be processed or reviewed by the City Council, or the city's boards or commissions, until such time as the EAW or EIS review process has been completed.

(G) *Criteria for granting a home occupation*.

(1) Application for a home occupation shall be made to the Zoning Administrator.

(2) An application, meeting all of the following criteria, shall be granted approval upon administrative review by the Zoning Administrator:

(a) The activity does not involve warehousing, except incidental storage of merchandise offered for sale in connection with the home occupation;

(b) The home occupation may be carried on by persons residing in the dwelling unit and not more than one employee who does not reside in the dwelling unit;

(c) Shall provide off-street parking for the employee;

(d) All material or equipment shall be stored within an enclosed structure;

(e) Objectionable noise, vibration, smoke, dust, electrical disturbances, odors, heat, glare, or other nuisance factors shall not be discernible at the property line;

(f) The home occupation shall not create excessive automobile traffic within the neighborhood;

(g) Shall not have any receipt or delivery of merchandise, goods, or supplies except through the U.S. mail, similar parcel delivery service, or personal vehicles not exceeding one ton; and

(h) May have outside off-street parking of no more than one commercial vehicle or vehicle identified for business purposes, not to exceed one ton capacity which is used for both personal and business transportation. The vehicle shall be owned by and registered

to an occupant of the property and parked in a screened location; and

(i) Shall meet the zone's off-street parking requirements for all vehicles.

(H) *Temporary family health care dwellings.* Temporary family health care dwellings as defined by Minnesota State Statutes shall be prohibited in all zoning districts.

(2013 Code, § 11.81) (Ord. 31, passed 10-25-1979; Ord. 106, passed 9-30-1982; Ord. 116, passed 4-14-1983; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 275, passed 9-22-1989; Ord. 282, passed 1-5-1990; Ord. 377, passed 7-7-1994; Ord. 470, passed 1-1-1997; Ord. 494, passed 8-14-1997; Ord. 495, passed 8-14-1997; Ord. 501, passed 9-18-1997; Ord. 518, passed 7-2-1998; Ord. 643, passed 11-14-2002; Ord. 815, passed 2-26-2009; Ord. 901, passed 2-17-2015; Ord. 940, passed 8-16-2016; Ord. 950, passed 11-15-2016)

§ 151.008 PLANNING COMMISSION.

(A) *Powers and duties*. The Planning Commission shall provide assistance to the City Council in the administration of this chapter, and shall review all matters referred to them, including land acquisitions and dispositions, and capital improvements. The Planning Commission shall review and hold public hearings on all applications for official mapping requests, comprehensive plan amendments, Interim Use Permits, and zoning ordinance amendments using the criteria set forth in this chapter.

(B) *Actions.* The Planning Commission shall make recommendations to the City Council on items before it within a reasonable time or such time as shall be prescribed by statute or ordinance. Failure by the Planning Commission to make a recommendation within the required period shall be deemed to be a denial if the delay is appealed by the applicant. The Planning Commission may condition its recommendation in order to effect the intent of this ordinance. The Planning Commission shall accompany its recommendation to deny an application with a statement of its findings regarding the matter.

(C) *City Council review*. The City Council may adopt, modify, or reject the recommendation of the Planning Commission by vote of a simple majority of those present, unless otherwise required by statute or this chapter.

(D) *Land acquisitions, dispositions, and capital improvements*.

(1) Prior to the acquisition or disposition of a publicly-owned interest in real property within the city, or the authorization of any capital improvement, the Planning Commission shall review the proposed acquisition, disposition, or capital improvement for compliance with the comprehensive plan. This requirement applies to proposed acquisition, dispositions, and capital improvements by the city or a special district or agency thereof, or any other political subdivision which has jurisdiction within the city.

(2) The Planning Commission shall report its findings in writing to the appropriate city, district, agency, or political subdivision within 45 days. Failure of the Planning Commission to report on the proposal within 45 days, or such other period as may be designated by the City Council, shall be deemed an approval. The City Council may dispense with the requirements of this division (D) when, in its judgment, it finds that the proposal has no relationship to the comprehensive plan.

(E) *Official maps*.

(1) For the purpose of carrying out the policies of the major thoroughfare plan and the community facilities plan, the Planning Commission may recommend to the City Council a proposed official map covering all or a part of the city. The official map shall identify land needed for future public uses. The City Council may, after holding a public hearing, adopt and amend the official map by ordinance.

(2) A notice of the time, place, and purpose of the hearing shall be published in the official newspaper at least 10 days prior to the date of the hearing. The official map or maps shall be prepared in sufficient detail to permit the establishment of the future acquisition lines on the ground. The accuracy of the future acquisition lines shall be attested to by a registered land surveyor. After adoption, a copy of the official map, or sections thereof with a copy of the adopting ordinance attached, shall be filed with the County Recorder.

(F) *Comprehensive plan*.

(1) The Planning Commission may recommend to the City Council the adoption and amendment from time to time of a comprehensive plan. The comprehensive plan may be prepared and adopted in sections, each of which relates to a major subject of the plan or to a major geographical section of the city. The City Council may propose the comprehensive plan and amendments to it, by resolution submitted to the Planning Commission. Before adopting the comprehensive plan or any section or amendment of the plan, the Planning Commission shall hold at least one public hearing thereon.

(2) A notice of the time, place, and purpose of the hearing shall be published once in the official newspaper of the city at least 10 days before the day of the hearing. A proposed comprehensive plan or an amendment to it may not be acted upon by the City Council until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the date an amendment proposed by the City Council has been submitted to the Planning Commission for its recommendation. The City Council may, by resolution by a two-thirds vote of all its members, adopt and amend the comprehensive plan or portion thereof.

(2013 Code, § 11.82) (Ord. 251, passed 8-26-1988; Ord. 337, passed 7-23-1992; Ord. 377, passed 7-7-1994; Ord. 953, passed 12-20-2016)

§ 151.009 ZONING ORDINANCE AMENDMENTS.

(A) *Initiation*. An amendment to the zoning ordinance may be initiated by the City Council, by the Planning Commission, or by application from an affected property owner. Amendments may be in the form of changes to the text of the zoning ordinance or changes to the zoning map. All amendments shall promote the public health, safety, and welfare and be consistent with the comprehensive plan.

(B) *Criteria for granting a zoning ordinance amendment*.

(1) The City Council may grant a zoning ordinance amendment when it finds that one or more of the following criteria exists:

(a) The original zoning ordinance is in error;

(b) Significant changes in community goals and policies have taken place;

(c) Significant changes in city-wide or neighborhood development patterns have occurred; or

(d) The comprehensive plan requires a different provision.

(2) An amendment involving a planned unit development or a Floodplain Overlay Zone also must meet the criteria set forth below for that zone.

(C) *Application for changed to zoning map*.

(1) An application for a change to the zoning map may be made by the owner of the property and shall be submitted to the Zoning Administrator on forms provided by the city.

(2) The application shall be accompanied by the following:

(a) A map or plat of the property and the land within 350 feet thereof;

(b) A list of the names and addresses of the owners of all properties located wholly or partially within 350 feet of the property as such appear on the records of the County Recorder;

(c) Evidence of ownership or an interest in the property;

(d) When the request is for the addition or deletion of an overlay zone, the Zoning Administrator may request that the applicant deposit an additional amount up to $1,000 for planning, engineering, administrative, and legal expenses incurred by the city for the review and processing of the application, if the Zoning Administrator anticipates that the application will cause the city to incur such expenses. Any portion of the supplemental deposit which is not used to reimburse the city will be refunded to the applicant;

(e) If the request is inconsistent with the comprehensive plan, the application must be accompanied by an application for an amendment to the comprehensive plan;

(f) If the request is to add or delete a planned unit development, or to add land to or delete land from the Floodplain Overlay Zone, the additional application information set forth below must be submitted; and

(g) Such other information as may be required by the city.

(D) *Public hearing*.

(1) *Hearing required*. No zoning amendment shall be adopted until a public hearing has been held by the Planning Commission or City Council. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper at least 10 days prior to the date of the hearing. Where an amendment involves changes in the boundaries of any zone or the addition or deletion of an

overlay zone, a similar notice shall be mailed at least 10 days before the day of the hearing to each owner of property situated wholly or partly within 350 feet of the property to which the amendment relates. When considering the addition of a Mining Overlay Zone, written notice of the public hearing shall be sent to property owners of record within one-half mile of the property in question.

(2) *Recommendation to City Council*. The Planning Commission shall submit its recommendation regarding the re-zoning application to the City Council within 60 days following the public hearing, unless an extension is agreed to in writing by the applicant. If no recommendation is transmitted by the Planning Commission within 60 days, the City Council may take action without a Planning Commission recommendation.

(3) *Shoreland and Floodplain Overlay Zones*. The Commissioner of the Department of Natural Resources shall be given written notice all hearings to consider an amendment to the text or map of the Shoreland or Floodplain Overlay Zone at least 10 days before the day of the hearing. The notice shall include a draft of the ordinance amendment.

(E) *City Council action*.

(1) *Generally*. After receipt of the recommendation of the Planning Commission, or after 60 days from the receipt of application without a Planning Commission recommendation, the City Council shall consider and act on the amendment. The City Council shall mail a copy of its decision to any applicant other than the City Council or the Planning Commission. If the City Council fails to make a decision within 120 days, the amendment shall be deemed to have been denied. The City Council may adopt an amendment to this chapter upon an affirmative vote of the number of City Councilmembers that is required by M.S. § 462.357, subd. 2(b), as it may be amended from time to time.

(2) *Shoreland Overlay Zone*. A copy of any approved zoning amendment affecting land within the Shoreland Overlay Zone shall be sent to the Commissioner of the State Department of Natural Resources within 10 days after final action or approval.

(F) *Reapplication*. No amendment which is denied wholly or in part by the City Council shall be resubmitted for a period of 6 months from the date of denial, except on grounds of new evidence or change of conditions.

(G) *Amendment to the comprehensive plan*. Any amendment to the zoning map granted by the City Council shall automatically amend the comprehensive plan.

(H) *Special provisions for Floodplain Overlay Zones*. In addition to the criteria required for any change to the zoning map, all of the following criteria must be found to exist for before the Floodplain Overlay Zone can be removed from any land:

(1) Any one of the following conditions is satisfied:

(a) The original map was in error;

(b) The area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain; or

(c) The Commissioner of the Department of Natural Resources has granted a special exception to this rule because the Commissioner determined that, through other measures, lands are adequately protected for the intended use.

(2) The amendment has been submitted to and approved by the Commissioner of the Department of Natural Resources; and

(3) The amendment meets the Federal Emergency Management Agency technical conditions and criteria and has received the approval of the Federal Emergency Management Agency.

(2013 Code, § 11.83) (Ord. 31, passed 10-25-1979; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994; Ord. 480, passed 4-24-1997; Ord. 638, passed 9-19-2002; Ord. 907, passed 6-16-2015)

§ 151.010 BOARD OF ADJUSTMENT AND APPEALS.

(A) *Powers and duties*. The Board of Adjustment and Appeals shall have the following powers and duties:

(1) To hear requests for conditional use permits which are not closely related to a land use application requiring consideration by the Planning Commission and City Council;

(2) To hear requests for variances which are not closely related to a land use application requiring consideration by the Planning Commission and City Council;

(3) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination

made by the Zoning Administrator or any other person in the enforcement of this chapter;

(4) To hear and decide requests for expansion of an existing use or structure, reconstruction of a partially destroyed structure, construction of a new structure, or other intensification of a Type B nonconformity, as set forth in § 151.017;

(5) To hear requests for shared parking plans, cooperative parking plans, and shared driveways; and

(6) To hear and decide appeals brought by persons aggrieved by a decision of city staff regarding the placement or removal of items within a city easement or sight triangle area or by city staff's denial of a fence permit or decision to require removal of a garden fence.

(B) *Procedures*.

(1) The Board of Adjustment and Appeals shall conduct a public hearing on all conditional use permits, variances, and appeals before it. Notice of the public hearing shall be published in the official newspaper once at least 10 days before the hearing.

(2) Any matter involving a variance also shall require mailed notice at least 10 days before the hearing to the applicant and the owners of all property located wholly or partially within 350 feet of the property for which the variance is requested. The Board shall, within a reasonable time, make a decision regarding any matter before it by adopting findings and shall serve a copy of its decision upon the applicant by mail.

(C) *Combined parking facilities*. The Board of Adjustment and Appeals shall review applications for shared parking plans and cooperative parking plans for compliance with the requirements of §§ 151.140 through 151.143. The Board shall approve a shared parking plan or a cooperative parking plan when it finds that such parking plan provides sufficient parking to meet the intent of this chapter, and is not detrimental to the owners and occupants of the surrounding property.

(D) *Shared driveways*. The Board of Adjustment and Appeals shall review applications for shared driveways, except when said plans are part of the platting process, for compliance with the requirements of §§ 151.155 through 151.157. When said plans are part of the platting process, the Planning Commission shall review the application for compliance. The Board shall approve a shared driveway when it finds that the application meets the intent of this chapter and is not detrimental to the owners and occupants of the affected property.

(2013 Code, § 11.84) (Ord. 377, passed 7-7-1994; Ord. 506, passed 12-2-1997; Ord. 678, passed 8-28-2003; Ord. 780, passed 6-14-2007)

§ 151.011 CONDITIONAL USE PERMITS.

(A) *Criterial for granting conditional use permits*. In granting a conditional use permit, the Board of Adjustment and Appeals shall consider the effect of the proposed use upon the health, safety, and general welfare of the occupants of surrounding lands and the city as a whole. The Board of Adjustment and Appeals shall not grant a conditional use permit without making the following findings:

(1) The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;

(2) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses allowed in the area;

(3) Adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;

(4) The use is consistent with the purposes of the zone in which the applicant intends to locate the proposed use; and

(5) The use is not in conflict with the comprehensive plan.

(B) *Application*. Application for a conditional use permit shall be made to the Zoning Administrator on forms provided by the city and shall be accompanied by the following:

(1) The legal description of the property;

(2) A list of the names and addresses of the owners of all properties situated wholly or partially within 350 feet of the property as such appear on the records of the County Recorder, or such larger area as specified in the applicable conditional use permit provisions;

(3) Evidence of ownership or an interest in the property;

(4) The fee;

(5) A plat or map of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways, and parking spaces; and

(6) A list of any variances requested with the conditional use permit. All variance requests shall be reviewed as part of the conditional use permit process but shall be subject to the criteria for granting variances as outlined in section § 151.015(B).

(C) *Public hearing*.

(1) *Generally*. After receipt of a completed application, a date shall be set for a public hearing before the Board of Adjustment and Appeals. Not less than 10 days prior to the public hearing, notice shall be published in the official newspaper and sent by mail to the applicant and to the owners of all properties located wholly or partially within 350 feet, as reflected in the records of the County Recorder.

(2) *Shoreland and Floodplain Overlay Zones*. The Commissioner of the Department of Natural Resources shall be given written notice of all hearings to consider a conditional use permit in the Shoreland Overlay Zone or in the Floodplain Overlay Zone at least 10 days before the day of the hearing.

(D) *Decision*.

(1) *Generally*. Following the hearing or any continuance which is not appealed by the applicant, the Board of Adjustment and Appeals shall make a decision on the request for a conditional use permit. Conditional use permits may be approved by the affirmative vote of a simple majority of those present. If the Board denies a conditional use permit, it shall make a finding and determination that the conditions required for approval do not exist. All decisions by the Board of Adjustment and Appeals are final subject to appeal to the City Council.

(2) *Shoreland and Floodplain Overlay Zones*. A copy of any approved conditional use permit affecting land within the Shoreland Overlay Zone or within the Floodplain Overlay Zone shall be sent to the Commissioner of the Department of Natural Resources within 10 days after final action or approval.

(E) *Appeal*. Any person aggrieved by a decision of the Board of Adjustment and Appeals regarding a conditional use permit may have such decision reviewed by the City Council if a request for review is submitted to the Zoning Administrator within 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 of the Board.

(F) *Additional conditions*. In granting a conditional use permit or altering an existing conditional use permit, the Board of Adjustment and Appeals or the City Council may impose conditions in addition to those specified in this chapter in order to preserve the health, safety, or welfare of the community or in order to implement the purposes of this chapter or the comprehensive plan.

(G) *Amendment; reapplication*. A request for an amended conditional use permit shall be administered in a manner similar to that required for a new conditional use permit. An amendment shall include requests for any change in the terms or conditions of the conditional use permit. If an application for a conditional use permit is denied, no application for the same or essentially the same conditional use permit shall be resubmitted for a period of 6 months from the date of denial.

(H) *Recording*. A copy of the conditional use permit shall be filed by the city with the County Recorder. The permit shall contain a legal description of the property.

(I) *Term.* A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed. A conditional use permit shall become void if it is not used within one year of the date of final action by the city. A conditional use permit shall expire if normal operation of the use has been discontinued for 6 or more months. Time shall be calculated as beginning on the day following the last day in which the use was in normal operation, or following the date of final city action, and shall run continuously thereafter.

(J) *Revocation*. The Board of Adjustment and Appeals may review conditional use permits periodically and may revoke a permit upon violation of any condition of the permit, requirement of this chapter, or violation of state or federal law or regulation, if it is discovered after approval of the conditional use permit that the Board's decision was based at least in part on fraudulent information. The Board may revoke the conditional use permit, modify the conditions, or impose additional conditions to ensure compliance with this chapter.

(K) *Construction during appeal period*. Any applicant who obtains a building permit and starts construction after the decision of the Board of Adjustment and Appeals, but prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city, the applicant will be notified of the appeal and informed of the date of the City Council meeting at which it will be heard.

(L) *Violations*. No person shall violate, fail to comply with, or assist, direct, or permit the violation of the terms or conditions of a conditional use permit.

(M) *Special provisions in the Floodplain Overlay Zone*.

(1) *Criteria*. In the Floodplain Overlay Zone, the Board of Adjustment and Appeals shall not grant a conditional use permit without considering the following factors:

(a) The 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 or that they may block bridges, culverts, or other hydraulic structures;

(c) Proposed water and sewer systems, and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

(d) The susceptibility of the proposed use, any structures, and their contents to flood damage, and the effect of such damage on the individual owner;

(e) The importance to the city of the services provided by the proposed use;

(f) The need for a waterfront location;

(g) The availability of alternative locations not subject to flooding for the proposed use;

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

(j) The safety of access to the property in times of flood for emergency and other vehicles;

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(l) Other factors relevant to the purposes of this chapter.

(2) *Application*.

(a) In addition to the requirements above, application for a conditional use permit in the Floodplain Overlay Zone shall be accompanied by information sufficient to allow the city to determine the regulatory flood protection elevation, and whether the proposed use is in the floodway or the flood fringe area.

(b) Such information may include the following:

1. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information;

2. A plans drawn to scale showing elevations or contours of the ground, existing and proposed structures, fill, or storage of materials; location and elevations of streets; existing land uses and vegetation upstream and downstream; and soil type; and

3. A profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(3) *Evaluation of proposed project*. In the information submitted to the Board of Adjustment and Appeals, the Zoning Administrator shall include an evaluation of the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, and the adequacy of the plans for protection.

(4) *Determination*.

(a) The city shall determine whether the proposed use is in the floodway or flood fringe area, and determine the regulatory flood protection elevation.

(b) This determination includes the following:

1. An estimation of the peak discharge of the regional flood;

2. A calculation of the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and

overbank areas; and

3. A computation of the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half of one foot. A lesser stage increase than one-half of one foot shall be required if, as a result of the additional stage increase, greater flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries. An "equal degree of encroachment" is a method of determining the location of floodway boundaries so that floodplain areas on both sides of a stream are capable of conveying a proportionate share of flood flows.

(5) *Presentation of determinations to Planning Commission and City Council.* The Zoning Administrator shall present these technical determinations to the Planning Commission and the City Council. The City Council shall accept the technical evaluation and the recommended floodway or flood fringe area boundary, or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analysis to the Federal Emergency Management Agency or the Department of Natural Resources.

(N) *Interim use permits.*

(1) *Purpose.* The purpose of the interim use permit application process is to:

(a) Ensure sufficient information is provided by the applicant;

(b) Ensure interim uses comply with city code requirements;

(c) Ensure temporary uses remain temporary in nature;

(d) Ensure appropriate conditions are attached to enhance compatibility with surrounding uses; and

(e) Ensure interim use permit applications are processed in a manner consistent with state statutes.

(f) Interim use permits may be used for the temporary establishment of any use listed in any zoning district as a permitted or conditional use.

(2) *Initiation.* An interim use permit application must be initiated by the owner of land upon which the interim use is proposed or by the City Council. If an interim use permit application is denied, an applicant may not submit a subsequent interim use permit application for the same use on the same site until one year has passed since the denial.

(3) *Public hearing.* After receipt of a completed application, a date shall be set for a public hearing before the Planning Commission. Not less than ten days prior to the public hearing, notice shall be published in the official newspaper and sent by mail to the applicant and of the owners of all properties located wholly or partially within 500 feet, as reflected in the records of the County Recorder.

(4) *Review and approval.* Interim use permit applications must be reviewed by the Planning Commission for a recommendation to the City Council.

(5) *Conditions of approval.* The entities empowered to review and take action on a given interim use permit application has the authority to attach conditions of approval to that application.

(6) *Findings.* The following findings must be made prior to the approval of an interim use permit:

(a) The proposed use will not delay permanent development of the site;

(b) The proposed use will not adversely impact implementation of the Comprehensive Plan or adopted plan for the area;

(c) The proposed use will not be in conflict with any provisions of the city code on an ongoing basis;

(d) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare;

(e) The date or event that will terminate the use has been identified with certainty; and

(f) The property on which the use is situated has no open enforcement orders and there are no nuisance characteristics associated with the property or its current use.

(g) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

(h) The user agrees to any conditions that the governing body deems appropriate for permission of the use.

(7) *Expiration and termination.* An interim use permit expires and the interim use must terminate at the earlier of:

(a) The expiration date established by the City Council at the time of approval, but in no event more than two years from the date of approval;

(b) The occurrence of any event identified in the interim use permit for the termination of the use; or

(c) Upon an amendment of the city code that no longer allows the interim use.

(d) Unused interim use permits expire six months after approval if the proposed use has not commenced or a complete building permit application for a structure to support the interim use has not been submitted to the city for review. A land owner may apply to the Zoning Administrator for no more than one time extension of up to six months for an unused interim use permit.

(e) Interim use permits expire if the interim use ceases operation for a continuous period of one year or longer.

(8) *Suspension or revocation.* The City Council may suspend or revoke an interim use permit upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this code, the laws of the state or any condition established at the time of approval of the interim use permit. A suspension or revocation of an interim use permit must be preceded by written notice to the permittee and a hearing. The notice must provide at least ten days' notice of the time and place of the hearing and must state the nature of the charges against the permittee. The notice must be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case is held by the City Council.

(9) *Standards.*

(a) *Term.* The term of an interim use permit must not exceed two years with a review after the first year.

(b) *Re-application.* An interim use permit is subject to an annual review, but upon application for a time extension of the same use on the same site, succeeding interim use permits may be approved for up to one year each if the Planning Commission and City Council makes the findings set forth in subsection (G) above in the affirmative and also finds that all previous conditions of approval have been satisfied and that the use meets all code requirements or has received appropriate variances from those requirements.

(10) *Content.* Interim use permit applications must include the following information, unless exempted by the Zoning Administrator:

(a) An application form signed by the property owner(s) or authorized representative;

(b) A list of the names and addresses of owners of all properties situated wholly or partially within 500 feet of the property as such appear on the records of the County Record, or such larger area as specified in the applicable conditional use provisions.

(c) The required application fee.

(d) Written documentation that includes:

1. A complete description of the use;
2. Schedule for commencement and cessation of the use;
3. Size of the facility accommodating the use including the number of seats, students, customers and the like;
4. Hours and dates of operation;
5. Anticipated employment;
6. Floor plan and/or site plan;

(e) If applicable due to site or building modifications, a separate but associated final site and building plan application or final development plan application; and

(f) *Any special studies requested.* The City Engineer or the Zoning Administrator may request special studies when there is evidence that the proposed use may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include, but are not limited to, traffic, environmental, storm water management, wetland, and utility studies.

(2013 Code, § 11.85) (Ord. 31, passed 10-25-1979; Ord. 35, passed 1-31-1980; Ord. 96, passed 11-11-1982; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994; Ord. 538, passed 2-18-1999; Ord. 953, passed 12-20-2016) Penalty, see § 151.999

§ 151.012 CONDITIONAL USE PERMIT STANDARDS FOR RESIDENTIAL ZONES.

(A) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location and design are consistent with the standards, purposes, and procedures of this chapter and the comprehensive plan, and do not have a detrimental impact on neighboring properties. The Board of Adjustment and Appeals may impose conditions on such uses in order to ensure compliance or to effect the purpose of this chapter.

(B) *Specific standards for Residential/Business/Industrial Zones*. In addition to the standards specified in § 151.011, the Board of Adjustment and Appeals will consider the specific standards contained in this division (B) when deciding whether a conditional use permit should be granted.

(1) *Accessory structures over the specified size in the Old Shakopee Residential (R-1C) Zone*.

(a) Shall meet all setback requirements for accessory structures;

(b) Shall not exceed the total square footage of the principal structure;

(c) Shall not be used for any commercial or leased storage use;

(d) Shall not impede or alter the natural drainage flow;

(e) Shall not increase runoff to neighboring properties;

(f) Shall provide a survey showing spot elevations and location of all structures both existing and proposed;

(g) Shall provide a scaled elevation of the proposed structure; and

(h) Architecture and exterior materials must be compatible with the principal structure and neighboring properties.

(2) *Agricultural research facilities*.

(a) Shall provide evidence that the research facility's work will not present a hazard to plants or animals on adjacent properties;

(b) Shall screen all exterior storage from any adjacent residential uses; and

(c) Shall landscape all structures and parking facilities.

(3) *Animal hospitals and veterinary clinics*.

(a) Shall not be located on a lot or parcel of land adjacent to any Low-Density Residential (R-1A), Urban Residential (R-1B), or Old Shakopee Residential (R-1C) Zone;

(b) Shall submit a plan for the disposal of all wastes;

(c) Shall have all animals attended and leashed during exercise runs; and

(d) Shall landscape all structures and parking facilities.

(4) *Bed and breakfast inns*.

(a) Shall meet all requirements of the State Department of Health;

(b) If providing meals, shall serve them only to guests renting a room;

(c) Shall provide off-street parking which is screened in accordance with §§ 151.105 through 151.125;

(d) Shall be the residence of the owner or operator; and

(e) Shall landscape all structures and parking facilities.

(5) *Boathouses*.

(a) Shall not be designed or used for human habitation;

(b) Shall not contain sanitary facilities;

(c) Shall be setback a minimum of 10 feet from the ordinary high water level;

(d) Shall not occupy an area greater than 250 square feet;

(e) Shall be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of vegetation, topography, color, or increased setback, assuming summer leaf-on conditions; and

(f) If located on shorelands adjacent to recreational development waterbodies, shall not occupy an area greater than 400 square feet. The width of the structure shall not exceed 20 feet as measured parallel to the shoreline.

(6) *Cemeteries*

(a) Shall have a minimum lot size of 5 acres;

(b) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan; and

(c) Shall be screened to a height of 3 feet.

(7) *Churches and other places of worship*.

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan;

(b) Shall have parking facilities setback 15 feet from residential property;

(c) Shall screen parking facilities adjacent to residential property with a berm and/or landscaping to a minimum height of 3 feet; and

(d) Shall have an impervious surface percent of no more than 70%, and the remainder of the site shall be landscaped.

(8) *Commercial feed lots*.

(a) Shall be a minimum of 1,320 feet from any residential zone other than Agricultural Preservation (AG); and

(b) Shall comply with all requirements of the State Pollution Control Agency with regard to the disposal of waste.

(9) *Commercial recreation, minor*.

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan;

(b) Shall have all buildings setback 50 feet from all property lines; and

(c) Shall landscape all structures and parking facilities.

(10) *Day care facilities serving 13 through 16 persons*.

(a) Shall not have any external building changes or improvements which alter the original character of the house;

(b) Shall have drop-off and pick-up areas located outside of the public right-of-way, and designed to enhance vehicular and pedestrian safely;

(c) Shall have outdoor play areas located and designed to minimize visual and noise impacts on adjacent residential uses; and

(d) Shall be on a site served by public water and sanitary sewer.

(11) *Developments containing more than one principal structure per lot*.

(a) Shall be on a lot that meets all design standards and public improvement requirements prescribed by Ch. 150;

(b) Shall be designed and placed to facilitate ingress, egress, and overall circulation, both for the development as a whole and for the individual buildings and structures within the development; and

(c) Shall consist of structures that are owned, maintained, and operated under unified control in accordance with a plan which contain provisions providing for the enforcement thereof.

(12) *Flood fringe storage of materials or equipment*. Flood fringe storage of materials or equipment below the regulatory flood protection elevation, if, in time of flooding, the materials or equipment are buoyant, shall submit a plan for removal of the materials and equipment from the area within the time available after a flood warning.

(13) *Floodway area structures accessory to a permitted or conditional use*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not be designed for human habitation;

(c) Shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures; and

(d) 1. Shall be elevated on fill or structurally dry-flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.

2. All flood-proofed accessory structures must meet the following additional standards, as appropriate:

a. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be 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 flood-proofed.

(14) *Floodway area placement of fill*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not include spoil from dredging, or sand and gravel mining operations, unless a long-term site development plan is submitted which includes an erosion and sedimentation prevention element; and

(c) Shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.

(15) *Floodway area storage yards for equipment, machinery, or materials*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not include any material that, in time of flooding, is flammable, explosive, or potentially injurious to human, animal, or plant life; and

(c) Shall be limited to materials or equipment which is readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Board of Adjustment and Appeals.

(16) *Floodway area uses*. Floodway area uses include the following:

(a) Mining and storage of sand, gravel, and other mined materials;

(b) Marinas, boat rentals, docks, piers, wharves, and water control structures;

(c) Railroads, streets, bridges, utility transmission lines, and pipelines; and

(d) Campgrounds with facilities for recreational vehicles; and other uses similar to those permitted, shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(17) *Floodway area structural works*. Floodway area structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event:

(a) Shall be subject to the provisions of M.S. Ch. 103G, as it may be amended from time to time, if they will change the course, current, or cross-section of protected wetlands or public waters;

(b) Shall be prohibited if they are community-wide structural works for flood control intended to remove areas from the regulatory floodplain; and

(c) Shall not cause an increase to the 100-year or regional flood. The technical analysis must assume equal conveyance or

storage loss on both sides of a stream.

(18) *Funeral homes*.

(a) The structure shall be of an architectural style which is compatible with any adjacent residential use; and

(b) Shall landscape all structures and parking facilities.

(19) *Hospitals or clinics*.

(a) Shall not be located on a lot or parcel of land adjacent to any Low-Density Residential (R-1A) or Urban Residential (R-1B) Zone;

(b) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan;

(c) Shall have parking facilities setback 15 feet from streets and nonresidential property, and 25 feet from residential property;

(d) Shall have an impervious surface percent of no more than 70%, and the remainder of the site shall be suitably landscaped; and

(e) Shall not have any emergency vehicle access adjacent to or located across a street from any residential use.

(20) *Kennels*.

(a) Shall submit a plan for the disposal of all waste;

(b) Shall have all animals attended and leashed during exercise runs; and

(c) Shall landscape all structures and parking facilities.

(21) *Mining*.

(a) Shall provide the city with the exact legal description and acreage of area to be mined;

(b) Shall provide the city with an aerial photograph of the site prior to any mining;

(c) Shall provide the city with the following maps of the entire site and all areas within 500 feet of the site, drawn at a scale of one inch to 100 feet:

1. *Map A - existing conditions to include*:

a. Contour lines at two-foot intervals;

b. Existing vegetation;

c. Existing drainage and permanent water areas;

d. Existing structures;

e. Existing wells; and

f. Cross-sectional views from each direction.

2. *Map B - proposed operations to include*:

a. Structures to be erected;

b. Location of sites to be mined showing the maximum depth of proposed excavation;

c. Location of tailings deposits showing maximum height of deposits;

d. Location of machinery to be used in the mining operation;

e. Location of storage of mined materials, showing height of storage deposits;

f. Location of parking facilities;

g. Location of storage of explosives;

h. Erosion and sediment control structures;

i. Location of proposed wells, and the depth to the water table;

j. Location of proposed washing operations;

k. A mining quantities table showing the quantity and type of materials expected to be mined in each phase and each year; and

l. Cross-sectional views of the site during each phase from each direction;

3. *Map C - end use plan to include*:

a. Final grade of proposed site showing elevations and contour lines at two-foot intervals;

b. Location and species of vegetation to be replanted;

c. Location and nature of any structures to be erected in relation to the end use plan; and

d. Cross-sectional views of the site after final grading.

(d) Shall provide the city with a full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation;

(e) Shall provide a dust control plan detailing the methods proposed for controlling dust, application rates, and time frames, and volumes of water to be used;

(f) Shall pave or gravel all roads which are within 450 feet of any other zone to minimize dust conditions;

(g) Shall provide a noise control plan showing all occupied structures within 1,000 feet of the mining site, existing noise contours in 5 Db intervals, and noise contours anticipated during operations for each phase;

(h) Shall provide a vibration control plan;

(i) Shall provide a landscape plan prepared by or under the supervision of a landscape architect showing material types, common and botanical names, sizes, number, and location of proposed plantings;

(j) Shall provide lighting and signage plans showing the type, height, and location of all exterior lighting and signs;

(k) Shall provide a stormwater management plan showing the stormwater contour lines and drainage patterns prior to, during, and after mining, stormwater runoff calculations, and indicating that the State Pollution Control Agency's *Best Management Practices* shall be followed;

(l) Shall provide a traffic analysis prepared by a professional engineer showing the following:

1. Existing traffic volumes on affected streets;

2. Anticipated traffic volumes on affected streets;

3. Anticipated trip generation for each phase or operations change;

4. Morning and afternoon peak hour traffic volumes at all driveways into the site;

5. Recommended traffic improvements both on and off the site; and

6. Recommended traffic management actions, including truck routing.

(m) Shall complete an environmental assessment worksheet;

(n) If adjacent to a residential zone or within 300 feet of 2 or more residential structures, shall be bound by the following standards:

1. Where water collects to a depth of one and one-half feet or more, for at least one month, and occupies an area of 700 square feet or more, all access to such water shall be barred by a fence or other barrier at least 4 feet in height; and

2. Where slopes occur that are steeper than one-foot vertical to 3 feet horizontal, for a period of one month or more, all access to such slopes shall be barred by a fence or other barrier at least 4 feet in height.

(o) Shall screen the mining site from adjacent residential or business uses. The mining site also shall be screened from any street within 500 feet. The screening shall be a minimum of 8 feet in height and planted with a fast growing species. Existing trees and ground cover along street frontage shall be preserved, maintained, and supplemented for the depth of the street yard setback, except where traffic safety requires cutting and trimming;

(p) Shall cut or trim weeds and any other unsightly or noxious vegetation as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property;

(q) Shall not interfere with surface water drainage beyond the boundaries of the mining operation. The mining operation shall not adversely affect the quality of surface or sub-surface water resources. Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality to or better quality than the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision;

(r) Shall conduct all operations between the hours of 7:00 a.m. and 7:00 p.m. Shorter hours may be established in the conditional use permit;

(s) For a gravel mine, shall have a maximum area without ground cover or being mined at one time not to exceed 20 acres; and

(t) Immediately after operations have ceased, shall be restored in compliance with the following:

1. Within a period of 3 months after the termination of a mining operation, or within 3 months after abandonment of such operation for a period of 6 months, all mining structures shall be dismantled and removed by, and at the expense of, the mining operator last operating such structures;

2. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in gently rolling topography in substantial conformity to the land area immediately surrounding the mining site, and which will minimize erosion due to rainfall. No finished slope shall exceed 18% in grade; and

3. a. Restored areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding the mining site, and to a depth of at least 6 inches, or a greater depth if recommended by the County Soil and Water Conservation District. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs also may be planted, but not as a substitute for legumes and grasses. Such planting shall be done in conformity with State Pollution Control Agency's *Best Management Practices* to adequately retard soil erosion.

b. Excavations completed to a water producing depth need not be backfilled if the water depth is at least 10 feet, and if banks shall be sloped to a water line at a slope no greater than 3 feet horizontal to one-foot vertical. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

(22) *Multiple-family dwellings containing up to 6 units*.

(a) Shall have a minimum lot size of 24,000 square feet;

(b) Shall screen parking facilities to a minimum height of 3 feet;

(c) The structure shall be of an architectural style which is compatible with any adjacent residential use; and

(d) Shall landscape all structures and parking facilities.

(23) *Nursing homes*.

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

(b) Shall have parking facilities setback 15 feet from streets and nonresidential property, and 25 feet from residential property; and

(c) Shall have an impervious surface percent of no more than 60%, and the remainder of the site shall be suitably landscaped.

(24) *Public or private schools*. Public or private schools having a course of instruction approved by the State Department of Education for students enrolled in K through grade 12, or any portion thereof:

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan, or otherwise located so

that access can be provided without conducting significant traffic on local residential streets;

(b) Shall have all buildings setback 50 feet from all property lines;

(c) Shall have parking facilities setback 15 feet from streets and nonresidential property, and 25 feet from residential property;

(d) Shall have bus drop-off and pick-up areas located outside of the public right-of-way, and designed to enhance vehicular and pedestrian safely;

(e) Shall have recreational areas designed for group sports activities setback 25 feet from residential property, with adequate screening to protect neighboring properties from noise and adverse visual impacts;

(f) Shall not have any lighted playing fields unless the visual impact on residential areas can be substantially mitigated; and

(g) Shall have an impervious surface percent of no more than 60%, and the remainder of the site shall be suitably landscaped.

(25) *Relocated structures*.

(a) Shall have a moving permit from the city under § 111.07.

(b) Prior to moving, shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) Shall meet all requirements of the Building Code within 6 months after moving; and

(d) If the structure is not in full compliance with the Building Code after 6 months after moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee.

(26) *Residential facilities*. Residential facilities serving 7 through 16 persons:

(a) Shall not have any external building changes or improvements which alter the original character of the house; any new structure shall be of an architectural style which is compatible with adjacent residential uses;

(b) Shall have adequate off-street parking based on the number of employees, visitors, and residents who will be driving, which parking shall be screened from view from residential uses; and

(c) Shall be served by public water and sanitary sewer.

(27) *Retail sales of nursery and garden supplies*.

(a) Shall have adequate off-street parking based on the usual number of employees and customers per day;

(b) Shall have immediate removal and sanitary disposal of dead or diseased plant materials; and

(c) Shall have no overnight storage of equipment used for planting or transplanting landscaping materials.

(28) *Riding academies*.

(a) Shall submit a plan for the disposal of all waste;

(b) Shall have a maximum of one horse per acre; and

(c) Shall landscape all structures and parking facilities.

(29) *Seasonal produce stands*. Seasonal produce stands when the principal use of the property is agricultural:

(a) Any goods sold shall be the product of the specific farm or garden;

(b) The stand shall be setback 15 feet from any street right-of-way; and

(c) Adequate parking facilities shall be provided in order to prevent a traffic hazard.

(30) *Structures over the specified height*.

(a) Shall submit a map showing shading patterns created by the over height structure; and

(b) Shall be setback from each property line a distance equal to half the structure height.

(31) *Utility service structures*. All utility service structures except water towers and electrical substations shall be subject to the following:

(a) Shall be less than 400 square feet in area;

(b) Shall be less than 15 feet in height;

(c) May only be used to provide weather protection for utility equipment; and

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends in with the neighboring uses, and is unobtrusive.

(32) *Wind energy conversation system or windmills*.

(a) Shall be setback from the nearest property line a distance equal to the height of the tower, plus one-half the diameter of the rotor;

(b) Shall be certified by a professional engineer as being of a design adequate for the atmospheric conditions of the Twin Cities;

(c) Shall be equipped with overspeed or similar controls designed to prevent disintegration of the rotor in high winds; and

(d) Shall comply with all building and electrical code requirements of the city, the noise regulations of the State Pollution Control Agency, and the rules and regulations of the Federal Communications Commission and Federal Aviation Administration.

(33) *Assisted living housing facility*.

(a) Up to 20%of the facility's units may be independent living units;

(b) Only the independent living units shall be considered for purposes of calculating the maximum density;

(c) The facility shall take access from an arterial or collector street as identified in the city's transportation plan;

(d) The facility must have a minimum 50 feet structure setback from all property lines;

(e) Parking facilities shall be setback 25 feet from property lines;

(f) The site shall be limited to a maximum impervious surface percentage of 60%;

(g) Parking facilities shall be screened with a berm and/or landscaping to a minimum height of 3 feet;

(h) The facility must comply with all applicable federal, state, and local regulations pertaining to facilities that provide assisted living services, including, but not limited to, the regulations contained in M.S. Ch. 144G, as it may be amended from time to time; and

(i) The building design and materials must meet the minimum requirements as specified in § 151.108(B).

(2013 Code, § 11.86) (Ord. 31, passed 10-25-1979; Ord. 93, passed 5-27-1982; Ord. 97, passed 7-15-1982; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994; Ord. 470, passed 1-1-1997; Ord. 501, passed 9-18-1997; Ord. 689, passed 11-27-2003; Ord. 697, passed 3-11-2004; Ord. 865, passed 3-5-2013) Penalty, see § 151.999

§ 151.013 CONDITIONAL USE PERMIT STANDARDS FOR BUSINESS ZONES.

(A) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location and design are consistent with the standards, purposes, and procedures of this chapter and the comprehensive plan, and do not have a detrimental impact on neighboring properties. The Board of Adjustment and Appeals may impose conditions on such uses in order to ensure compliance or to effect the purpose of this chapter.

(B) *Specific standards for Residential/Business/Industrial Zones*. In addition to the standards specified in § 151.011, the Board of Adjustment and Appeals will consider the specific standards contained in this division (B) when deciding whether a conditional use permit should be granted.

(1) *Administrative, executive, and professional offices*.

(a) Shall be an integral part of a permitted principal use; and

(b) Shall display no signage visible from off-site.

(2) *Animal hospitals and veterinary clinics*. Animal hospitals and veterinary clinics shall not be located on a lot or parcel of land adjacent to any Low-Density Residential (R-1A), Urban Residential (R-1B), or Old Shakopee Residential (R-1C) Zone;

(3) *Bed and breakfast inns*.

(a) Shall meet all requirements of the State Department of Health;

(b) If providing meals, shall serve them only to guests renting a room;

(c) Shall provide off-street parking which is screened in accordance with §§ 151.105 through 151.125 ; and

(d) Shall be the residence of the owner or operator.

(4) *Boathouses*.

(a) Shall not be designed or used for human habitation;

(b) Shall not contain sanitary facilities;

(c) Shall be setback a minimum of 10 feet from the ordinary high water level;

(d) Shall not occupy an area greater than 250 square feet;

(e) Shall be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of vegetation, topography, color, or increased setback, assuming summer leaf-on conditions; and

(f) If located on shorelands adjacent to recreational development waterbodies, shall not occupy an area greater than 400 square feet. The width of the structure shall not exceed 20 feet as measured parallel to the shoreline.

(5) *Bus terminals and taxi stands*.

(a) Shall be located adjacent to an arterial street as identified in the comprehensive plan; and

(b) May not be located on a lot or parcel of land adjacent to any Rural Residential (RR), Low-Density Residential (R-1 A), Urban Residential (R-1B), or Old Shakopee residential (R-1 C) Zone.

(6) *Car washes*.

(a) Shall be located adjacent to an arterial street as identified in the comprehensive plan;

(b) Shall be screened from view from residential zones;

(c) Shall utilize a water conservation or recovery system; and

(d) Shall provide stacking for at least 3 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback.

(7) *Churches and other places of worship*.

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan;

(b) Shall have parking facilities setback 15 feet from residential property;

(c) Shall screen parking facilities adjacent to residential property with a berm and/or landscaping to a minimum height of 3 feet; and

(d) Shall have an impervious surface percent of no more than 70%, and the remainder of the site shall be landscaped.

(8) *Commercial recreation, major or minor*.

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan; and

(b) Shall have all parking screened from adjacent residential zones.

(9) *Commercial recreation, minor, but limited to health and athletic facilities*.

(a) Shall limit hours of operation between 6:00 a.m. and 11:00 p.m.;

(b) The structure shall be of an architectural style which is compatible with neighboring structures; and

(c) Shall have no facilities outside a building.

(10) *Day care facilities*.

(a) Shall have drop-off and pick-up areas located outside of the public right-of-way, and designed to enhance vehicular and pedestrian safely; and

(b) Shall have outdoor play areas located and designed to mitigate visual and noise impacts on adjoining residential uses.

(11) *Developments containing more than one principal structure per lot.*

(a) Shall be on a lot that meets all design standards and public improvement requirements prescribed by Ch. 150;

(b) Shall be designed and placed to facilitate ingress, egress, and overall circulation, both for the development as a whole and for the individual buildings and structures within the development; and

(c) Shall consist of structures that are owned, maintained, and operated under unified control in accordance with a plan which contain provisions providing for the enforcement thereof.

(12) *Flood fringe storage of materials or equipment*. Flood fringe storage of materials or equipment below the regulatory flood protection elevation, if, in time of flooding, the materials or equipment are buoyant, shall submit a plan for removal of the materials and equipment from the area within the time available after a flood warning;

(13) *Floodway area structures accessory to a permitted or conditional use*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not be designed for human habitation;

(c) Shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures; and

(d) Shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:

1. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

2. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly flood-proofed.

(14) *Floodway area placement of fill*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not include spoil from dredging, or sand and gravel mining operations, unless a long-term site development plan is submitted which includes an erosion and sedimentation prevention element; and

(c) Shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.

(15) *Floodway area storage yards for equipment, machinery, or materials*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not include any material that, in time of flooding, is flammable, explosive, or potentially injurious to human, animal, or plant life; and

(c) Shall be limited to materials or equipment which is readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Board of Adjustment and Appeals.

(16) *Floodway area uses*. Floodway area uses include the following:

(a) Mining and storage of sand, gravel, and other mined materials;

(b) Marinas, boat rentals, docks, piers, wharves, and water control structures;

(c) Railroads, streets, bridges, utility transmission lines, and pipelines;

(d) Campgrounds with facilities for recreational vehicles; and

(e) Other uses similar to those permitted, shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(17) *Floodway area structural works*. Floodway area structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event:

(a) Shall be subject to the provisions of M.S. Ch. 103G, as it may be amended from time to time, if they will change the course, current, or cross-section of protected wetlands or public waters;

(b) Shall be prohibited if they are community-wide structural works for flood control intended to remove areas from the regulatory floodplain; and

(c) Shall not cause an increase to the 100-year or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(18) *Funeral homes*.

(a) The structure shall be of an architectural style which is compatible with any adjacent residential use; and

(b) Shall landscape all structures and parking facilities

(19) *Gas stations*.

(a) Shall be screened from any adjacent residential zone;

(b) Shall not store any vehicles which are unlicensed and inoperable on the premises, except in appropriately designed and screened storage areas;

(c) Shall conduct all repair, assembly, disassembly, and maintenance of vehicles within a building, except minor maintenance such as tire inflation, adding oil, and wiper replacement;

(d) Shall not have a public address system which is audible from any residential property;

(e) Shall provide stacking for gas pumps for at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback;

(f) Shall not sell, store, or display any used vehicles; and

(g) May have a canopy which projects up to 10 feet into the required front or rear yard setback. The setback shall be maintained clear of all obstructions up to a height of 13 feet. The canopy shall have a maximum vertical thickness of 3 feet. The canopy shall have a maximum height of 18 feet.

(20) *Health and athletic facilities*.

(a) Shall limit hours of operation between 6:00 a.m. and 11:00 p.m.;

(b) The structure shall be of an architectural style which is compatible with neighboring structures; and

(c) Shall have no facilities outside a building.

(21) *Horse care uses including boarding, training, showing, grooming, and veterinary clinic facilities.*

(a) Shall not be located on a lot or parcel of land adjacent to any Low-Density Residential (R-1A), Urban Residential (R-1B), or Old Shakopee Residential (R-1C) Zone; and

(b) Shall submit a plan for the disposal of all wastes.

(22) *Hospitals*.

(a) Shall not be located on a lot or parcel of land adjacent to any Low-Density Residential (R-1A) or Urban Residential (R-1B) Zone;

(b) Shall have direct access to a collector or arterial street as identified in the comprehensive plan;

(c) Shall have parking facilities setback 15 feet from streets and nonresidential property, and 25 feet from residential property;

(d) Shall have an impervious surface percent of no more than 70%, and the remainder of the site shall be suitably landscaped; and

(e) Shall not have any emergency vehicle access adjacent to or located across a street from any residential use.

(23) *Hotels and motels*. Hotels and motels shall not be located on a lot or parcel of land adjacent to any Low-Density Residential (R-1A), Urban Residential (R-1B), or Old Shakopee residential (R-1C) Zone.

(24) *Hotels, motels, and conference centers*.

(a) Shall be screened from any adjacent residential zone;

(b) The structure shall be of an architectural style which is compatible with neighboring structures;

(c) Shall not increase traffic congestion on streets; and

(d) Shall have direct access to a collector or arterial street as identified in the comprehensive plan.

(25) *Housing serving handicapped persons*. Housing serving handicapped persons shall have a floor area ratio (FAR) not exceeding 60.

(26) *Multiple-family housing*:

(a) Shall screen all parking to a height of 3 feet;

(b) The structure shall be of an architectural style which is compatible with neighboring structures; and

(c) Shall have a minimum lot size of 24,000 square feet.

(27) *Open sales lots or any use having exterior storage of goods for sale*.

(a) Shall be screened from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall be kept neat and orderly;

(d) Shall not have any uses in any required front, side, or rear yard setback, or in any required parking area; and

(e) Shall not block any sidewalk.

(28) *Parking facilities open to the public*. Parking facilities open to the public shall not be located adjacent to any Low-Density Residential (R-1A), Urban Residential (R-1B), or Old Shakopee Residential (R-1C) Zone.

(29) *Pet day care and boarding facilities*.

(a) Shall not be located on property adjacent to properties that are either existing residential uses or which are zoned for residential use, and shall be at least 300 feet from residentially used or zoned properties;

(b) All animals shall be housed or boarded indoors, and the facility shall not have outdoor boarding or confinement areas;

(c) All wastes shall be properly stored in either the principal building or in an attached enclosure that is constructed of materials consistent with those of the principal structure, including a top; and

(d) If outdoor exercise facilities are provided, they shall not be on public property (whether easement, park, right-of-way, or otherwise).

(30) *Printing or publishing facilities*. Printing or publishing facilities shall not have any loading spaces located adjacent to any residential zone. All loading spaces shall be screened from any adjacent residential use, business use, and street.

(31) *Private lodges and clubs*.

(a) Shall be located on an arterial or collector street as identified in the comprehensive plan;

(b) If serving liquor, shall not be located on a lot or parcel of land adjacent to any Low- Density Residential (R-1A), Urban Residential (R-1B), or Old Shakopee Residential (R-1C) Zone; and

(c) Shall have all parking screened from any adjacent residential zone.

(32) *Relocated structures*.

(a) Shall have a moving permit from the city under § 111.07;

(b) Prior to moving, shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) Shall meet all requirements of the Building Code within 6 months after moving; and

(d) If the structure is not in full compliance with the Building Code after 6 months after moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee.

(33) *Restaurants*. Restaurants, Class I or Class II, contained within a principal structure, and oriented toward serving employees or those working in the immediate area:

(a) Shall not exceed 15% of the gross floor area or 3,000 square feet, whichever is less; and

(b) Shall not increase traffic congestion on streets.

(34) *Restaurants*, Class I and II that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located.

(a) All patios and congregation areas are subject to the city's noise regulations;

(b) Any lights on the patios and congregation areas are subject to the city's regulations pertaining to illumination standards at the property line;

(c) Exterior congregation areas which serve alcohol shall physically delineate the exterior area which alcohol is to be served. This delineation shall clearly define the space, with a clear access and exit. Delineation examples shall include, but not be limited to: grade changes, material changes, decking, or planters;

(d) The entry to the outdoor patio or congregation areas is to be compact and contiguous with the structure; and

(e) Exterior congregation areas that utilize pedestrian areas, such as a public or private sidewalk or walkway, shall maintain a clear 4 foot path for pedestrian walkway. Alleys shall not be considered pedestrian thoroughfares.

(35) *Retail uses generally associated with a permitted use*.

(a) Shall not require or result in any exterior building modifications, such as loading spaces, separate entrances, freestanding signs, or overnight parking of commercial vehicles;

(b) Shall be contained within a principal structure and oriented toward serving employees or customers of the permitted use or

uses in the immediate area;

(c) Shall not exceed 25% of the gross floor area of the principal structure;

(d) Shall have no outside storage or display or accessory structures; and

(e) Shall submit a sign plan.

(36) *Retail uses and entertainment facilities*.

(a) Shall be an integral part of a permitted principal use;

(b) Shall have no entrance, except from within the principal building;

(c) Shall display no external signage except on the first floor of the building; and

(d) Shall occupy no more than 25% of the ground floor area.

(37) *Self-storage facilities*.

(a) Shall limit its hours of operation between 7:00 a.m. and 10.00 p.m.;

(b) Shall submit a lighting plan; and

(c) Shall have all storage buildings separated by sufficient space for 2 lanes of traffic.

(38) *Storage, assembly, or servicing incidental to a permitted use*.

(a) Shall have no exterior storage;

(b) Shall screen any loading spaces;

(c) Shall not have any driveways or parking of trucks located within any front, side, or rear yard setback adjacent to any residential zone; and

(d) Shall not exceed 25% of the gross floor area of the principal structure.

(39) *Structures over the specified height*.

(a) Shall submit a map showing shading patterns created by the over height structure; and

(b) Shall be setback from each property line a distance equal to half the structure height.

(40) *Taverns*. All taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located.

(a) All patios and congregation areas are subject to the city's noise regulations;

(b) Any lights on the patios and congregation areas are subject to the city's regulations pertaining to illumination standards at the property line;

(c) Exterior congregation areas which serve alcohol shall physically delineate the exterior area which alcohol is to be served. This delineation shall clearly define the space, with a clear access and exit. Delineation examples shall include, but not be limited to: grade changes, material changes, decking, or planters;

(d) The entry to the outdoor patio or congregation areas is to be compact and contiguous with the structure; and

(e) Exterior congregation areas that utilize pedestrian areas, such as a public or private sidewalk or walkway, shall maintain a clear 4 foot path for pedestrian walkway. Alleys shall not be considered pedestrian thoroughfares.

(41) *Theaters*. Theaters shall be permitted only when it can be demonstrated through a traffic plan that vehicular ingress and egress may be accomplished without inducing undue traffic problems on areas streets.

(42) *Drive-through windows*. Uses having a drive-up or drive-through window:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property; and

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback.

(43) *Utility service structures*. All utility service structures except water towers and electrical substations shall be subject to the following:

(a) Shall be less than 400 square feet in area;

(b) Shall be less than 15 feet in height;

(c) May be used only to provide weather protection for utility equipment; and

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends in with the neighboring uses, and is unobtrusive.

(44) *Vehicle sales, service, or repair*.

(a) Shall not store any vehicles which are unlicensed and inoperative for more than 7 days, except in appropriately designed and screened storage areas;

(b) Shall conduct all repair, assembly, disassembly, or maintenance of vehicles within a building, except for minor maintenance such as tire inflation, adding oil, and wiper replacement;

(c) Shall not have any outside storage or display except of vehicles for sale or rent;

(d) Shall not have a public address system which is audible from any residential property;

(e) Shall screen all storage areas;

(f) Shall screen all display areas adjacent to a residential zone;

(g) Shall apply the parking setback to all areas where vehicles are located;

(h) Shall maintain a landscaped buffer 100 feet wide from any residential zone; and

(i) All motor vehicle dealers shall be licensed by the state.

(45) *Vehicle rental facilities*.

(a) Shall conduct all maintenance, repair, and washing of vehicles within a building;

(b) Shall screen all rental car parking areas from adjacent residential properties;

(c) Shall apply the parking setback to all areas where vehicles are located; and

(d) Rental vehicles must not take up required customer and employee parking spaces.

(46) *Wholesale and assembly operations*.

(a) Shall not have any loading spaces located adjacent to any residential zone; and

(b) Shall screen all loading spaces from any residential zone.

(47) *Farm wineries*.

(a) Waste products must be disposed of in a timely manner and in such a way to reduce odors;

(b) Outdoor seating areas are to operate no later than 10:00 p.m.; and

(c) The operator must supply the Planning Department with annual production reports.

(48) *Micro-distilleries*.

(a) Waste products must be disposed of in a timely manner and in such a way to reduce odors;

(b) Outdoor seating areas are to operate no later than 10:00 p.m.; and

(c) The operator must supply the Planning Department with annual production reports.

(49) *Small breweries*.

(a) Waste products must be disposed of in a timely manner and in such a way to reduce odors; and

(b) The operator must supply the Planning Department with annual production reports.

(50) *Taprooms*.

(a) On- or off-premises sales require a liquor license; and

(b) Outdoor seating areas are to operate no later than 10:00 p.m.

(51) *Tasting rooms, winery, distillery*.

(a) On- or off-premises sales require a liquor license; and

(b) Outdoor seating areas are to operate no later than 10:00 p.m.

(2013 Code, § 11.87) (Ord. 31, passed 10-25-1979; Ord. 93, passed 5-27-1982; Ord. 97, passed 7-15-1982; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994; Ord. 420, passed 7-27-1995; Ord. 434, passed 11-30-1995; Ord. 546, passed 5-6-1999; Ord. 554, passed 7-6-1999; Ord. 689, passed 11-27-2003; Ord. 708, passed 7-29-2004; Ord. 736, passed 9-8-2005; Ord. 877, passed 12-3-2013; Ord. 915, passed 9-1-2015; Ord. 934, passed 6-21-2016) Penalty, see § 151.999

§ 151.014 CONDITIONAL USE PERMIT STANDARDS FOR INDUSTRY ZONES.

(A) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location and design are consistent with the standards, purposes, and procedures of this chapter and the comprehensive plan, and do not have a detrimental impact on neighboring properties. The Board of Adjustment and Appeals may impose conditions on such uses in order to ensure compliance or to effect the purpose of this chapter.

(B) *Specific standards for Residential/Business/Industrial Zones*. In addition to the standards specified in § 151.011, the Board of Adjustment and Appeals will consider the specific standards contained in this division (B) when deciding whether a conditional use permit should be granted.

(1) *Airports and heliports*.

(a) Shall establish and utilize approach and departure routes over nonresidential areas to the maximum extent possible;

(b) Shall not be located on a lot or parcel of land within 500 feet of any residential zone; and

(c) Shall have a dust free landing strip or pad.

(2) *Boathouses*.

(a) Shall not be designed or used for human habitation;

(b) Shall not contain sanitary facilities;

(c) Shall be setback a minimum of 10 feet from the ordinary high water level;

(d) Shall not occupy an area greater than 250 square feet;

(e) Shall be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of vegetation, topography, color, or increased setback, assuming summer leaf-on conditions; and

(f) If located on shorelands adjacent to recreational development waterbodies, shall not occupy an area greater than 400 square feet. The width of the structure shall not exceed 20 feet as measured parallel to the shoreline.

(3) *Commercial vehicle rental facilities*.

(a) Shall not wash any vehicle except within a building;

(b) Shall not repair or maintain any vehicle on-site, except in an enclosed structure;

(c) Shall have all outside parking facilities at least 100 feet from any residential zone; and

(d) Shall screen all outside parking facilities from any adjacent residential zone.

(4) *Concrete or asphalt plants*. Concrete or asphalt plants shall not be located closer than 500 feet to any residential zone.

(5) *Day care facilities*.

(a) Shall have drop-off and pick-up areas located outside of the public right-of-way, and designed to enhance vehicular and pedestrian safely;

(b) Shall have outdoor play areas located and designed to mitigate visual and noise impacts on adjoining residential uses; and

(c) Shall submit a traffic plan which addresses industrial traffic flow with respect to the day care operation.

(6) *Developments*. Developments containing more than one principal structure per lot:

(a) Shall be designed and placed to facilitate ingress, egress, and overall circulation, both for the development as a whole and for the individual buildings and structures within the development; and

(b) Shall consist of structures that are owned, maintained, and operated under unified control in accordance with a plan which contain provisions providing for the enforcement thereof.

(7) *Exterior storage*.

(a) Shall be screened from all public right-of-way and residentially-zoned land, with an opaque fence, wall, or berm not to exceed 8 feet in height, constructed of new materials, and maintained in good condition;

(b) Shall have a maximum area equal to the combined footprint of the principal and accessory buildings;

(c) Shall not be located closer than 300 feet to any residential zone; and

(d) Shall be surfaced entirely with asphalt, concrete, or Class 5 aggregate.

(8) *Flood fringe storage of materials*. Flood fringe storage of materials or equipment below the regulatory flood protection elevation, if, in time of flooding, the materials or equipment are buoyant, shall submit a plan for removal of the materials and equipment from the area within the time available after a flood warning.

(9) *Floodway area structures*. Floodway area structures accessory to a permitted or conditional use:

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not be designed for human habitation;

(c) Shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures; and

(d) 1. Shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code; provided the accessory structure constitutes a minimal investment does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.

2. All flood-proofed accessory structures must meet the following additional standards, as appropriate:

a. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be 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 flood-proofed.

(10) *Floodway area placement of fill*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not include spoil from dredging, or sand and gravel mining operations, unless a long-term site development plan is submitted which includes an erosion and sedimentation prevention element; and

(c) Shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.

(11) *Floodway area storage yards for equipment, machinery, or materials*.

(a) Shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(b) Shall not include any material that, in time of flooding, is flammable, explosive, or potentially injurious to human, animal, or plant life; and

(c) Shall be limited to materials or equipment which is readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Board of Adjustment and Appeals.

(12) *Floodway area uses*. Floodway area uses include the following:

(a) Mining and storage of sand, gravel, and other mined materials;

(b) Marinas, boat rentals, docks, piers, wharves, and water-control structures;

(c) Railroads, streets, bridges, utility transmission lines, and pipelines;

(d) Campgrounds with facilities for recreational vehicles; and

(e) Other uses similar to those permitted, shall not cause any increase in the stage of a 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(13) *Floodway area structural works*. Floodway area structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event:

(a) Shall be subject to the provisions of M.S. Ch. 103G, as it may be amended from time to time, if they will change the course, current, or cross-section of protected wetlands or public waters;

(b) Shall be prohibited if they are community-wide structural works for flood control intended to remove areas from the regulatory floodplain; and

(c) Shall not cause an increase to the 100-year or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(14) *Grain elevators*.

(a) Shall have all loading spaces located at least 300 feet from any residential zone; and

(b) Shall provide a safety plan satisfactory to the Fire Chief to be followed in the event of fire or explosion.

(15) *Industrial or technical training schools*.

(a) Shall not have any overnight outside storage of vehicles undergoing maintenance; and

(b) Shall have any structures constructed on-site for training purposes dismantled or removed within a reasonable period of time following completion of the training.

(16) *Junkyards*.

(a) Shall be completely screened on all sides, with an opaque fence or wall 8 feet or more in height, constructed of new materials, maintained in good condition, and screened additionally with suitable planting;

(b) Shall not be located closer than 1,000 feet to existing state and federal roads, nor closer than 100 feet to any street; and

(c) Shall not be located on a lot or parcel of land closer than 300 feet to any residential zone.

(17) *Landscaping services and contractors*.

(a) Shall promptly remove any diseased or dead plant materials, and dispose of them in a sanitary manner;

(b) Shall store all equipment at least 100 feet from any residential zone; and

(c) Shall screen all equipment from any adjacent residential zone.

(18) *Manufacturing, fabrication, and the like within an enclosed building*. Manufacturing, fabrication, processing, and assembly conducted entirely with an enclosed building, except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400:

(a) Shall meet all federal, state, and city health code requirements;

(b) Shall meet all federal, state, and city environmental code requirements;

(c) Shall not begin operation until any applicable environmental review, including an environmental assessment worksheet or an environmental impact statement is completed and all mitigation measures incorporated into the use. Any construction prior to the completion of the environmental review and incorporation of all mitigation measures is at the applicant's risk;

(d) Shall provide the city with information regarding the nature and location of all explosive materials, and keep such information current;

(e) Shall not require isolation from residential or business uses;

(f) Shall be buffered, if necessary, to protect adjacent uses; and

(g) Shall not cause a public nuisance such as noise, odor, smoke, dust, dirt, vibration, or heat, or attract insects.

(19) *Manufacturing, fabrication, and the like generally*. Manufacturing, fabrication, processing, assembly, and storage operations, and research laboratories, that fit within one of the Mandatory EIS Categories under Minn. Rules 4410.4400:

(a) Shall meet all federal, state, and city health code requirements;

(b) Shall meet all federal, state, and city environmental code requirements;

(c) Shall not begin operation until the environmental impact statement is completed and all mitigation measures incorporated into the use. Any construction prior to the completion of the environmental impact statement and incorporation of all mitigation measures is at the applicant's risk; and

(d) Shall provide the city with information regarding the nature and location of all explosive materials and keep such information current.

(20) *Mining*.

(a) Shall provide the city with the exact legal description and acreage of area to be mined;

(b) Shall provide the city with an aerial photograph of the site prior to any mining;

(c) Shall provide the city with the following maps of the entire site and all areas within 500 feet of the site, drawn at a scale of one inch to 100 feet:

1. *Map A - existing conditions to include*:

   a. Contour lines at two-foot intervals;

   b. Existing vegetation;

   c. Existing drainage and permanent water areas;

   d. Existing structures;

   e. Existing wells; and

   f. Cross-sectional views from each direction;

2. *Map B - proposed operations to include*:

a. Structures to be erected;

b. Location of sites to be mined showing the maximum depth of proposed excavation;

c. Location of tailings deposits showing maximum height of deposits;

d. Location of machinery to be used in the mining operation;

e. Location of storage of mined materials, showing height of storage deposits;

f. Location of parking facilities;

g. Location of storage of explosives;

h. Erosion and sediment control structures;

i. Location of proposed wells and the depth to the water table;

j. Location of proposed washing operations;

k. A mining quantities table showing the quantity and type of materials expected to be mined in each phase and each year; and

l. Cross-sectional views of the site during each phase from each direction;

3. *Map C - end use plan to include*:

a. Final grade of proposed site showing elevations and contour lines at two-foot intervals;

b. Location and species of vegetation to be replanted;

c. Location and nature of any structures to be erected in relation to the end use plan; and

d. Cross-sectional views of the site after final grading.

(d) Shall provide the city with a full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation;

(e) Shall provide a dust control plan detailing the methods proposed for controlling dust, application rates and time frames, and volumes of water to be used;

(f) Shall pave or gravel all roads which are within 450 feet of any other zone to minimize dust conditions;

(g) Shall provide a noise control plan showing all occupied structures within 1,000 feet of the mining site, existing noise contours in 5 Db intervals, and noise contours anticipated during operations for each phase;

(h) Shall provide a vibration control plan;

(i) Shall provide a landscape plan prepared by or under the supervision of a landscape architect showing material types; common and botanical names; sizes, number, and location of proposed plantings;

(j) Shall provide lighting and signage plans showing the type, height, and location of all exterior lighting and signs;

(k) Shall provide a stormwater management plan showing the stormwater contour lines and drainage patterns prior to, during, and after mining, stormwater runoff calculations, and indicating that the State Pollution Control Agency's *Best Management Practices* shall be followed;

(l) Shall provide a traffic analysis prepared by a professional engineer showing the following:

1. Existing traffic volumes on affected streets;

2. Anticipated traffic volumes on affected streets;

3. Anticipated trip generation for each phase or operations change;

4. Morning and afternoon peak hour traffic volumes at all driveways into the site;

5. Recommended traffic improvements both on and off the site; and

6. Recommended traffic management actions, including truck routing.

(m) Shall complete an environmental assessment worksheet;

(n) If adjacent to a residential zone or within 300 feet of 2 or more residential structures, shall be bound by the following standards:

1. Where water collects to a depth of one and one-half feet or more, for at least one month, and occupies an area of 700 square feet or more, all access to such water shall be barred by a fence or other barrier at least 4 feet in height; and

2. Where slopes occur that are steeper than one-foot vertical to 3 feet horizontal, for a period of one month or more, all access to such slopes shall be barred by a fence or other barrier at least 4 feet in height.

(o) Shall screen the mining site from adjacent residential or business uses. The mining site also shall be screened from any street within 500 feet. The screening shall be a minimum of 8 feet in height and planted with a fast growing species. Existing trees and ground cover along street frontage shall be preserved, maintained, and supplemented for the depth of the street yard setback, except where traffic safety requires cutting and trimming;

(p) Shall cut or trim weeds and any other unsightly or noxious vegetation as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property;

(q) Shall not interfere with surface water drainage beyond the boundaries of the mining operation. The mining operation shall not adversely affect the quality of surface or sub-surface water resources. Surface water originating outside and passing through the mining site shall, at its point of departure from the mining site, be of equal quality to or better quality than the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision;

(r) Shall conduct all operations between the hours of 7:00 a.m. and 7:00 p.m. Shorter hours may be established in the conditional use permit;

(s) For a gravel mine, shall have a maximum area without ground cover or being mined at one time not to exceed 20 acres; and

(t) Immediately after operations have ceased, shall be restored in compliance with the following:

1. Within a period of 3 months after the termination of a mining operation, or within 3 months after abandonment of such operation for a period of 6 months, all mining structures shall be dismantled and removed by, and at the expense of, the mining operator last operating such structures;

2. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in gently roiling topography in substantial conformity to the land area immediately surrounding the mining site, and which will minimize erosion due to rainfall. No finished slope shall exceed 18% in grade; and

3. Restored areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding the mining site, and to a depth of at least 6 inches, or a greater depth if recommended by the County Soil and Water Conservation District. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs also may be planted, but not as a substitute for legumes and grasses. Such planting shall be done in conformity with State Pollution Control Agency's *Best Management Practices* to adequately retard soil erosion. Excavations completed to a water producing depth need not be backfilled if the water depth is at least 10 feet, and if banks shall be sloped to a water line at a slope no greater than a 3 feet horizontal to one-foot vertical. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore the mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.

(21) *Recycling or composting facilities*.

(a) Shall conduct all operations either within a building or at least 500 feet from any residential or business zone;

(b) Shall not collect more material on-site than can be processed within a 60-day period; and

(c) Shall promptly remove from the site all material which has been processed.

(22) *Relocated structures*.

(a) Shall have a moving permit from the city under § 111.07;

(b) Prior to moving, shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure

completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) Shall meet all requirements of the Building Code within 6 months after moving; and

(d) If the structure is not in full compliance with the Building Code after 6 months after moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee.

(23) *Residences for security personnel.*

(a) Shall not exceed one dwelling per principal use;

(b) Shall be used only by a resident security guard and the guard's family, and shall not be available for rent to the public; and

(c) May not exceed 1,000 square feet of living space.

(24) *Restaurants*. Restaurants, Class I or Class II, contained within a principal structure and oriented toward serving employees or those working in the immediate area:

(a) Shall not exceed 15% of the gross floor area or 3,000 square feet, whichever is less; and

(b) Shall not increase traffic congestion on streets.

(25) *Retails sales*. Retail sales of products manufactured, fabricated, assembled, or stored on-site:

(a) Shall sell products only within the principal structure;

(b) Shall limit the area devoted to display and sale of the products to no more than 15% of the principal structure or 2,000 square feet within the principal structure, whichever is less;

(c) Shall not require or result in exterior building modifications;

(d) Shall have no outside storage or display or accessory structures; and

(e) Shall submit a sign plan.

(26) *Self-storage facilities*.

(a) Shall not allow maintenance of any vehicles on-site, except within a building;

(b) Shall have a security system adequate to limit access to persons renting a storage site; and

(c) Shall screen all storage.

(27) *Structures over the specified height.*

(a) Shall submit a map showing shading patterns created by the over height and structure; and

(b) Shall be setback from each property line a distance equal to half the structure height.

(28) *Vehicle repair*.

(a) Shall not store any vehicles which are unlicensed or inoperative for more than 7 days;

(b) Shall screen all storage areas; and

(c) Shall not be located on a lot or parcel of land within 200 feet of any residential zone.

(29) *Taprooms*.

(a) Taproom and retail areas must not exceed 25% of the floor area of the brewery operation;

(b) On- or off-premises sales require a liquor license; and

(c) Outdoor seating areas are to operate no later than 10:00 p.m.

(30) *Tasting rooms, winery, and distillery*.

(a) Tasting rooms and retail areas must not exceed 25% of the floor area of the operation;

(b) On- or off-premises sales require a liquor license; and

(c) Outdoor seating areas are to operate no later than 10:00 p.m.

(2013 Code, § 11.88) (Ord. 31, passed 10-25-1979; Ord. 93, passed 5-27-1982; Ord. 97, passed 7-15-1982; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994; Ord. 429, passed 11-2-1995; Ord. 689, passed 11-27-2003; Ord. 877, passed 12-3-2013) Penalty, see § 151.999

§ 151.015 VARIANCES.

(A) *Variance jurisdiction*. The Board of Adjustment and Appeals shall have jurisdiction over any variance which is not closely related to a land use application requiring consideration by the Planning Commission and City Council. Any variance which is closely related to such a land use application shall be under the jurisdiction of the Planning Commission and City Council.

(B) *Criteria for granting variances*. A variance from the requirements of the zoning ordinance may be granted where the following circumstances are found to exist:

(1) (a) When the application for the variance establishes that there are practical difficulties in complying with the official control.

(b) Practical difficulties means the following:

1. The property owner proposes to use the property in a reasonable manner not permitted by an official control;

2. The plight of the landowner is due to circumstances unique to the property;

3. The circumstances were not created by the landowner;

4. The variance, if granted, will not alter the essential character of the locality; and

5. The problems extend beyond economic considerations. Economic considerations alone do not constitute practical difficulties.

(2) It has been demonstrated that a variance as requested will be in harmony with the general purposes and intent of the chapter and when the variance as requested is consistent with the comprehensive plan;

(3) The request is not for a use variance;

(4) Conditions to be imposed by the Board of Adjustment and Appeals must be directly related to and must bear a rough proportionality to the impact created by the variance; and

(5) Variances in the Floodplain Overlay Zone also shall meet the following criteria:

(a) No variance shall have the effect of allowing a lower degree of flood protection than the regulatory flood protection elevation for the particular area;

(b) The Board shall submit to the Commissioner of the State Department of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least 10 days' notice of the hearing;

(c) A copy of all decisions granting variances shall be forwarded to the Commissioner of the Department of Natural Resources within 10 days of such action; and

(d) The Zoning Administrator shall notify the applicant for a variance that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance and that such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The city shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(C) *Application*. An application for a variance shall be filed with the Zoning Administrator on the appropriate forms stating the

undue hardship claimed. The application must be accompanied by the following:

(1) A site plan at a scale large enough for clarity showing the following information:

(a) Location and dimensions of lots, buildings, driveways, and off-street parking spaces;

(b) Distances between buildings and front, side, and rear lot lines; principal buildings and accessory structures; principal buildings and accessory structures on adjacent lots;

(c) Location of signs, easements, underground utilities, septic tanks, tile fields, and water wells; and

(d) Any additional information as reasonably may be required by the Zoning Administrator.

(2) A list of the names and addresses of the owners of all properties located wholly or partially within 350 feet of the property, as such appear on the records of the County Recorder;

(3) Evidence of ownership or an interest in the property;

(4) The fee; and

(5) Such other information as may be required by the city.

(D) *Public hearing*.

(1) *Generally*. Upon receipt of a completed application, a date shall be set for a public hearing before the Board of Adjustment and Appeals. Property owners within 350 feet of the property for which a variance is requested shall be notified by mail of the proposed variance at least 10 days prior to the public hearing. Published notice of hearing also shall be given at least 10 days before the hearing in the official newspaper.

(2) *Shoreland Overlay Zone*. The Commissioner of the Department of Natural Resources shall be given written notice all hearings to consider a variance in the Shoreland Overlay Zone at least 10 days before the day of the hearing.

(E) *Decision*.

(1) *Generally*. Following the public hearing, the Board of Adjustment and Appeals shall decide the matter before it. Variances may be approved by the affirmative vote of a simple majority of those present. If the Board denies a variance, it shall make a finding and determination that the conditions required for approval do not exist. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of 6 months from the date of denial, except on grounds of new evidence or proof of change of conditions. All decisions by the Board of Adjustment and Appeals are final subject to appeal to the City Council.

(2) *Shoreland Overlay Zone*. A copy of any approved variance affecting land within the Shoreland Overlay Zone shall be sent to the Commissioner of the State Department of Natural Resources within 10 days after approval. When a variance has been approved despite the Commissioner's recommendation of denial, the copy of the final action shall be accompanied by a summary of the public record and testimony regarding the matter and the findings of fact and conclusions which support the issuance of the variance.

(F) *Appeal*. Any person aggrieved by a decision of the Board of Adjustment and Appeals regarding a variance may have such decision reviewed by the City Council if a request for review is submitted to the Zoning Administrator within 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 of the Board.

(G) *Additional conditions*. In granting a variance, the Board of Adjustment and Appeals or City Council may impose conditions in order to preserve the health, safety, or welfare of the community or in order to implement the purposes of this chapter or the comprehensive plan.

(H) *Recording*. A copy of the variance shall be maintained in the city's records and shall also be required to be recorded at the County Recorder's office or the County Registrar of Titles office.

(I) *Term of variance*. Any variance granted by the city shall run with the land unless within one year of the date of approval no building permit has been issued or substantial work performed on the project, in which case the variance shall be null and void. The Board may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension.

(J) *Specific project*. A variance shall be valid only for the project 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 Board of Adjustment and Appeals or the City Council.

(K) *Construction during appeal period*. Any applicant who obtains a building permit and starts construction upon the decision of the Board of Adjustment and Appeals prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city, the applicant will be notified of the appeal and informed of the date of the City Council meeting at which it will be heard.

(L) *Violations*. No person shall violate, fail to comply with, or assist, direct, or permit the violation of the terms or conditions of a variance. Such violation shall be a violation of the variance and shall render the variance null and void.

(2013 Code, § 11.89) (Ord. 31, passed 10-25-1979; Ord. 35, passed 1-31-1980; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994; Ord. 694, passed 2-5-2004; Ord. 847, passed 6-30-2011) Penalty, see § 151.999

§ 151.016 APPEALS.

(A) *Appeals from city staff decisions*. Any person aggrieved by a decision of the Zoning Administrator or other person regarding the enforcement of this chapter, may appeal to the Board of Adjustment and Appeals. The appeal shall specify what error allegedly was made in an order, requirement, decision, or determination made by the Zoning Administrator or other person. The appeal shall be filed in writing with the Zoning Administrator within 7 days of the date of decision. Upon receipt of an appeal, the Zoning Administrator shall schedule the matter for consideration by the Board. The Board shall have authority to affirm, modify, or reverse the decision of the Zoning Administrator or other person. This provision shall not apply in the case of a criminal prosecution for violation of this chapter.

(B) *Appeals from decision of the Board of Adjustment and Appeals*. Any person aggrieved by a decision of the Board of Adjustment and Appeals may appeal the decision to the City Council. The appeal must be submitted in writing to the Zoning Administrator within 10 days of the date of the decision and shall include a statement of the alleged errors or omissions of the Board. Upon appeal, the City Council shall consider the request within 90 days unless an extended period is agreed upon by the parties.

(C) *Construction during appeal period*. Any applicant who obtains a building permit and starts construction after the decision of the Board of Adjustment and Appeals, but prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city, the applicant will be notified of the appeal and informed of the date of the City Council meeting at which it will be heard.

(2013 Code, § 11.90) (Ord. 31, passed 10-25-1979; Ord. 246, passed 6-17-1988; Ord. 377, passed 7-7-1994)

§ 151.017 NONCONFORMITIES.

(A) *Purpose*.

(1) It is recognized that there are structures and uses of land which were lawful when established but which do not now comply with all applicable provisions of this chapter. While nonconformities may not be summarily terminated, it is the purpose and intent of this chapter to discourage the survival of Type A nonconformities and such uses are hereby declared to be incompatible with this chapter and with the comprehensive plan. It is further the purpose and intent of this chapter to discourage the enlargement, expansion, or extension of any Type A nonconformity or any increase of the impact of such nonconformity on adjoining property.

(2) It is also recognized that there are Type B nonconformities in which the uses continue to be permissible but which are operated on sites or in structures which do not fully meet the development standards of this chapter. It is the intent of this chapter to distinguish between uses which are not permitted and those in which development standards or other incidents of development are not in full compliance with this chapter. Type A nonconformities will be discouraged and not allowed to expand, while Type B nonconformities will be allowed to continue in existence and expand under carefully regulated conditions.

(B) *Types of nonconformities*. This chapter recognizes the following 2 types of nonconformities:

(1) Type A nonconformities shall include land and structures which are devoted to a use not permitted by this chapter.

(2) Type B nonconformities shall include developed land which is devoted to a use permitted by this chapter, but where the site or structure is not in compliance with some other provision of this chapter, such as the design standards applicable within that zone.

(3) Undeveloped parcels of land which are not in compliance with some provision of this chapter or any other relevant provision of this code of ordinances, such as the design standards applicable within that zone, shall not be considered nonconformities. It is further the intent of this chapter to allow development to occur on these parcels while acknowledging any variation from existing

standards of this code of ordinances.

(C) *Regulation of Type A nonconformities*. Type A nonconformities shall be regulated in accordance with the following.

(1) No such use shall be expanded, enlarged, to use more land area, intensified, replaced, structurally changed, or relocated, except to make it a permitted use. Normal maintenance and non-structural repairs shall be excepted from this prohibition.

(2) No nonconformity shall be resumed if normal operation of the use has been discontinued for a period of 6 or more months. Time shall be calculated as beginning on the date following the last day in which the use was in normal operation and shall run continuously thereafter.

(3) (a) Full utilization of the nonconformity shall not be resumed if the amount of land or floor area dedicated to the use is lessened or if the intensity of the use is in any manner diminished for a period of 6 or more months. Time shall be calculated as beginning on the day following the last day in which the nonconformity was in full operation and shall run continuously thereafter.

(b) Following the expiration of 6 months, the nonconformity may be used only in the manner or to the extent used during the preceding 6 months.

(c) For the purposes of this division (C)(3), intensity of use shall include, but not be limited to, hours of operation, traffic, noise, exterior storage, signs, exterior lighting, types of goods or services offered, odors, and number of employees.

(4) Removal or destruction of a nonconformity to the extent of more than 50% of its estimated market value, excluding land, as determined by the assessor, shall terminate the right to continue the nonconformity.

(5) Notwithstanding the prohibitions contained in divisions (C)(1) through (C)(4) above and (C)(6) below, if approved by the Board of Adjustment and Appeals, a nonconformity may be changed to another nonconformity of less intensity. In all instances, the applicant has the burden of proof regarding the relative intensities of uses.

(6) If a nonconformity is superseded or replaced by a permitted use, the nonconforming status of the premises and any rights which arise under the provisions of this section shall terminate.

(7) In the Floodplain Overlay Zone, the cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure. The cost of all structural alterations and additions constructed since the adoption of the zoning ordinance must be calculated into today's current cost of all previous and proposed alterations and additions which exceeds 50% of the current market value of the structure, then the structure must be brought into conformity with the provisions of §§ 151.085 through 151.094, Floodplain Overlay Zone (FP).

(D) *Regulation of Type B nonconformities*. Type B nonconformities shall be regulated in accordance with the following.

(1) Expansion of an existing use or structure, reconstruction of a partially destroyed structure, construction of a new structure, or other intensification of a Type B nonconformity may be permitted upon a finding by the Board of Adjustment and Appeals of the following:

(a) The number and extent of nonconformities will not be increased in conjunction with the proposed construction or intensification;

(b) The impact of nonconformities upon adjacent property will not be increased in conjunction with the proposed construction or intensification; and

(c) The conditions to be imposed by the Board of Adjustment and Appeals will effect the intent of this section.

(2) Unless a building permit has been applied for within 180 days of removal or destruction of a Type B nonconformity, a Type B nonconformity which is destroyed to the extent of more than 50% of its market value at the time of loss shall be replaced only in compliance with the standards of the applicable zone. A Type B nonconformity destroyed to the extent of less than 50% of market value at the time of loss may be rebuilt to previously existing dimensions. In reviewing a permit for any Type B nonconformity which has been partially destroyed, the city shall seek to make the development conform as closely to the requirements of this chapter as is reasonably practical.

(3) (a) In the Floodplain Overlay Zone, the cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure.

(b) The cost of all structural alterations and additions constructed since the adoption of the zoning ordinance must be calculated into today's current cost which will include all costs such as construction, materials, and labor.

(c) If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must be brought into conformity with the provisions of §§ 151.085 through 151.094, Floodplain Overlay Zone (FP).

(E) *Nonconformity; eminent domain*. When the taking under eminent domain of a portion of the land upon which there existed a lawful use prior to such taking results in such use becoming unlawful under this chapter, such use is a nonconformity and may be continued only under the provisions of this chapter.

(2013 Code, § 11.91) (Ord. 31, passed 10-25-1979; Ord. 377, passed 7-7-1994; Ord. 412, passed 4-27-1995)

§ 151.018 PUBLIC NOTICE, NEIGHBORHOOD MEETINGS, POSTING OF SIGNS AND OTHER GENERAL RULES.

(A) *Applicability*. This section applies to all applications for development approvals and permit requests under this chapter and Chapter 150, unless otherwise stated.

(B) *Authority to file applications*.

(1) Applications submitted under this chapter or Chapter 150 may be submitted by the landowner: a person, business, or organization having rights in contract in the land or their authorized agents; the city council; the planning commission: or the city administrator.

(2) If the applicant is not the owner of the land, the owner's name and contact information must be included in the application.

(C) *Neighborhood meeting*.

(1) A neighborhood meeting is required for the following types of applications if the application also requires a public hearing before either the Planning Commission or the Board of Adjustments and Appeals:

(a) Map amendment (rezoning);

(b) Preliminary Plat;

(c) Conditional Use Permit not related to a single-family home;

(d) Comp Plan Amendment;

(e) PUD;

(f) Zoning Text Amendment;

(g) Variance not related to a single-family home.

(2) An applicant must conduct the neighborhood meeting before a public hearing is held by the Planning Commission or the Board of Adjustments and Appeals. The Zoning Administrator may waive this requirement in cases where there is no adjacent neighborhood that would be impacted by the application or where the scope of the project has only a minimal impact on the neighborhood.

(3) The purpose of the neighborhood meeting is to provide an opportunity for informal communication between applicants, occupants, and owners of nearby properties that might be affected by development proposals; to educate the nearby occupants and owners about the proposed development and application; to receive comments and address concerns about the development proposal; and to resolve conflicts and outstanding issues, where possible.

(4) If a neighborhood meeting is required, it should comply with the following procedures:

(a) The neighborhood meeting should be held during the hours of 6:00 p.m. to 9:00 p.m., Monday through Friday, at a place that is generally accessible to occupants of property in close proximity to the land subject to the application. Meetings may be held at a time and day different from the above at the neighborhood's request. Meetings shall be held at least eight calendar days before the scheduled public hearing. Failure to do so can result in delay or denial of the application.

(b) The applicant shall provide notification of the neighborhood meeting at least seven business days before the date of the meeting by first class mail to: all owners and occupants within 500 feet of the land subject to the application and any neighborhood organization that represents residents within that area. The notification shall state the date, time and place of the meeting.

(c) At the neighborhood meeting, the applicant shall explain the development proposal and application; answer questions; and, address the ways in which to resolve the attendees' concerns. Within two days after the meeting, the applicant shall provide the Zoning Administrator with a list of the attendees and a summary of their concerns.

(D) *Public notification for public hearings.*

(1) All mailed and published notices for public hearings shall:

(a) Identify the city's case log number and the name of the applicant or the applicant's agent.

(b) Indicate the date, time and place of the public hearing.

(c) Describe the site involved by street address, property identification number (or both) and nearest intersection.

(d) Identify the current zoning district designation of the site subject to the application.

(e) Describe the nature, scope and purpose of the application or proposal.

(f) Indicate the date and hours of availability and describe in which city department the application, staff report, and related materials may be inspected by the public.

(g) Include a statement describing where interested members of the public and property owners may submit written comments or evidence before the public hearing.

(h) Include a statement that interested members of the public and property owners may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

(2) When an application requires mailed notice, the Zoning Administrator shall be responsible for preparing and mailing the written notice at city expense. Notice shall be mailed to:

(a) All property owners of the land subject to the application.

(b) All property owners and occupants within 500 feet of the land subject to the application whose address is known by reference to the latest ad valorem property tax records.

(3) Notice shall be mailed by its deposit in the United States mail first class, properly addressed, postage paid. The Zoning Administrator shall acknowledge at the public hearing that the required notice of the hearing was mailed. A copy of the mailed notice shall be maintained by the zoning city administrator for public inspection during normal business hours.

(4) When an application requires that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice and publishing the notice in the city's official newspaper. The content and form of the published notice shall be consistent with the requirements of the applicable provisions in state law. The Zoning Administrator shall prepare a certificate acknowledging that published notice has occurred pursuant to the requirements of this subsection and include a copy of the published notice in the city's records.

(E) *Posted notice.*

(1) Posted notice on the site that is the subject of the application is required for any application for which a neighborhood meeting is required.

(2) The posted notice shall comply with the following requirements:

(a) Notice shall be posted on signs in a form established by the Zoning Administrator.

(b) The signs shall be placed by the applicant on the property that is subject to the application at least 15 days before the public hearing along each public street that abuts or transects the property, at intervals of not more than 500 feet.

(c) The signs shall be posted in a manner that ensures visibility from public streets.

(3) The applicant shall provide the Zoning Administrator with a notarized affidavit in a format provided by the city stating that posted notice has been provided in accordance with the requirements of this subsection. The affidavit shall be submitted to the Zoning Administrator before the public hearing.

(4) The applicant shall ensure that the posted notice is maintained on the property until the completion of the public hearing.

(5) The signs shall be removed by the applicant within five days after the public hearing.

(F) The failure to give posted, mailed, or published notice as required by this section or defects in any notice or irregularities in the neighborhood meeting shall not invalidate the proceedings if a bona fide attempt to comply with the requirements of this section has been made.

(Ord. 951, passed 12-20-2016)

ZONES AND DISTRICTS

§ 151.030 AGRICULTURAL PRESERVATION ZONE (AG).

(A) *Purpose*. The purpose of the Agricultural Preservation Zone is to preserve and promote agriculture in the unsewered areas of the city which are suitable for such use, to prevent scattered and leap-frog non-farm growth, and to prevent premature expenditures for such public services as roads, sewer, water, and police and fire protection.

(B) *Permitted uses*. Within the Agricultural Preservation Zone, no structure or land shall be used except for one or more of the following uses:

(1) Agricultural uses;

(2) Single-family detached dwellings;

(3) Forestry and nursery uses;

(4) Seasonal produce stands;

(5) Riding academies;

(6) Utility services;

(7) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(8) Public recreation;

(9) Public buildings;

(10) Day care facilities serving 12 or fewer persons;

(11) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Comply with all other state licensing requirements.

(12) Group family day care facilities serving 14 or fewer children;

(13) Residential facilities serving 6 or fewer persons; or

(14) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Agricultural Preservation Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Commercial feedlots, which include yards, lots, pens, buildings, or other areas or structures used for the confined feeding of livestock or other animals for food, fur, pleasure, or resale purposes;

(2) Retail sales of nursery and garden supplies;

(3) Cemeteries;

(4) Churches and other places of worship;

(5) Agricultural research facilities, which are facilities specifically operated for the purpose of conducting research in the production of agricultural crops, including research aimed at developing plant varieties. This term specifically excludes research regarding the development or research of soil conditioners, fertilizers, or other chemical additives placed in or on the soil or for the experimental raising of animals;

(6) Animal hospitals and veterinary clinics;

(7) Kennel; kennel is any premises in which more than 2 domestic animals, over 6 months of age, are boarded, bred, or offered for sale;

(8) Public or private schools having a course of instruction approved by the State Department of Education for students enrolled in K through grade 12, or any portion thereof;

(9) Commercial recreation, minor;

(10) Day care facilities serving 13 through 16 persons;

(11) Adult day care centers as conditional use, subject to the following conditions. The adult day care centers shall:

(a) Serve 12 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements;

(12) Residential facilities serving from 7 through 16 persons;

(13) Wind energy conversion systems or windmills;

(14) Structures over 2-1/2 stories or 35 feet in height;

(15) Developments containing more than one principal structure per lot;

(16) Utility structures which do not meet the standard conditions under the permitted uses; or

(17) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Agricultural Preservation Zone the following uses shall be permitted accessory uses:

(1) Machinery, structures, and silos necessary to the conduct of agricultural operations;

(2) Garages;

(3) Fences;

(4) Recreational equipment;

(5) Stables;

(6) Swimming pools;

(7) Solar equipment;

(8) Tennis courts;

(9) Receive-only satellite dish antennas, antenna devices, or communication service devices/apparatus (excluding towers) if located on utility service structures or public buildings;

(10) Home occupations contingent upon approval of a home occupation permit; or

(11) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Agricultural Preservation Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density*: One dwelling per forty 40 acres; and

(2) *Lot specifications*.

(a) 1. *Minimum lot width*: 1,000 feet; and

2. *Minimum lot depth*: 1,000 feet.

(b) 1. *Minimum front yard setback*: 100 feet;

2. *Minimum side yard setback*: 20 feet; and

3. *Minimum rear yard setback*: 40 feet.

(c) *Maximum height*: 35 feet. Grain elevators, barns, silos, and elevator lags may exceed this limitation without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.22) (Ord. 31, passed 10-25-1979; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 304, passed 11-7-1991; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 482, passed 5-15-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 549, passed 6-3-1999; Ord. 572, passed 7-27-2000; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 903, passed 3-17-2015)

§ 151.031 RURAL RESIDENTIAL ZONE (RR).

(A) *Purpose*. The purpose of the Rural Residential Zone is to allow low-density residential development in areas which are not served by municipal urban services.

(B) *Permitted uses*. Within the Rural Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Single-family detached dwellings;

(2) Agricultural uses;

(3) Forestry and nursery uses;

(4) Utility services;

(5) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(6) Public recreation;

(7) Public buildings;

(8) Day care facilities serving 12 or fewer persons;

(9) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Comply with all other state licensing requirements.

(10) Group family day care facilities serving 14 or fewer children;

(11) Residential facilities serving 6 or fewer persons; or

(12) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Rural Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Churches and other places of worship;

(2) Cemeteries;

(3) Commercial recreation, minor;

(4) Seasonal produce stands when the principal use of the property is agricultural;

(5) Public or private schools having a course of instruction approved by the State Department of Education for students enrolled in K through grade 12, or any portion thereof;

(6) Riding academies;

(7) Day care facilities serving 13 through 16 persons;

(8) Adult day care centers as conditional use, subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space;

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(9) Residential facilities serving from 7 through 16 persons;

(10) Wind energy conversion systems or windmills;

(11) Structures over 2-1/2 stories or 35 feet in height;

(12) Developments containing more than one principal structure per lot;

(13) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit;

(14) Home occupations on properties 10 acres or greater in area where more than one employee does not reside in the dwelling unit; or

(15) Utility structures which do not meet the standard conditions under the permitted uses.

(D) *Permitted accessory uses*. Within the Rural Residential Zone, the following uses shall be permitted accessory uses:

(1) Garages;

(2) Fences;

(3) Gardening and other horticultural uses not involving retail sales;

(4) One lodging room per single-family dwelling;

(5) Recreational equipment;

(6) Machinery, structures, and silos necessary to the conduct of agricultural operations;

(7) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be

complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; or

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(8) Stables with not more than 2 horses per 2-1/2 acres;

(9) Swimming pools;

(10) Solar equipment;

(11) Receive-only satellite dish antennas and other antenna devices;

(12) Home occupations contingent upon approval of a home occupation permit;

(13) Tennis courts; or

(14) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference, cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(q) 1. All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city.

2. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site.

(r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus; and

(s) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Rural Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density*. One dwelling per 10 acres. For lots approved prior to January 18, 1994, the maximum density is one dwelling per 2-1/2 acres;

(2) *Maximum impervious surface percentage.* 30%;

(3) *Lot specifications*.

(a) 1. *Minimum lot width*: 150 feet; and

2. *Minimum lot depth*: 200 feet.

(b) 1. *Minimum front yard setback*: 40 feet;

2. *Minimum side yard setback*: 20 feet;

3. *Minimum rear yard setback*: 40 feet; and

4. *Minimum setback for accessory machinery and buildings necessary to the conduct of agricultural operations*: 100 feet from all lot lines.

(4) *Maximum height*. No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.24) (Ord. 31, passed 10-25-1979; Ord. 264, passed 5-26-1989; Ord. 288, passed 2-16-1990; Ord. 304, passed 11-7-1991; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 549, passed 6-3-1999; Ord. 600, passed 6-28-2001; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 813, passed 2-26-2009; Ord. 903, passed 3-17-2015)

§ 151.032 SEWER RURAL RESIDENTIAL ZONE (SRR).

(A) *Purpose*. The purpose of the Sewered Rural Residential Zone is to allow low-density residential development in areas that were platted prior to September 2006, and which are served by municipal urban services.

(B) *Permitted uses*. Within the Sewered Rural Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Single-family detached dwellings;

(2) Agricultural uses;

(3) Forestry and nursery uses;

(4) Utility services;

(5) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(6) Public recreation;

(7) Public buildings;

(8) Day care facilities serving 12 or fewer persons;

(9) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Comply with all other state licensing requirements.

(10) Group family day care facilities serving 14 or fewer children;

(11) Residential facilities serving 6 or fewer persons; or

(12) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city

to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Sewered Rural Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Churches and other places of worship;

(2) Cemeteries;

(3) Commercial recreation, minor;

(4) Seasonal produce stands when the principal use of the property is agricultural;

(5) Public or private schools having a course of instruction approved by the State Department of Education for students enrolled in K through grade 12, or any portion thereof;

(6) Riding academies;

(7) Day care facilities serving 13 through 16 persons;

(8) Adult day care centers as conditional use, subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(9) Residential facilities serving from 7 through 16 persons;

(10) Wind energy conversion systems or windmills;

(11) Structures over 2-1/2 stories or 35 feet in height;

(12) Developments containing more than one principal structure per lot; or

(13) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Sewered Rural Residential Zone, the following uses shall be permitted accessory uses:

(1) Garages;

(2) Fences;

(3) Gardening and other horticultural uses not involving retail sales;

(4) One lodging room per single-family dwelling;

(5) Recreational equipment;

(6) Machinery, structures, and silos necessary to the conduct of agricultural operations;

(7) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication devices(s)/apparatus; and

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist, and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major playfields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(8) Stables with not more than 2 horses per 2-1/2 acres;

(9) Swimming pools;

(10) Solar equipment;

(11) Receive-only satellite dish antennas and other antenna devices;

(12) Home occupations contingent upon approval of a home occupation permit;

(13) Tennis courts; or

(14) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(q) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(15) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Sewered Rural Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density*: Densities shall be as approved at the time of platting prior to September 2006;

(2) *Maximum impervious surface percentage*: 30%;

(3) *Lot specifications*: As approved at the time of platting prior to September 2006; and

(4) *Maximum heights*: No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.25) (Ord. 771, passed 10-26-2006; Ord. 793, passed 3-27-2008; Ord. 813, passed 2-26-2009) Penalty, see § 151.999

§ 151.033 LOW-DENSITY RESIDENTIAL ZONE (R-1A).

(A) *Purpose*. The purpose of the Low-Density Residential Zone is to allow large-lot single-family development in areas of the city served by sanitary sewer and water.

(B) *Permitted uses*. Within the Low-Density Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Single-family detached dwellings;

(2) Public recreation;

(3) Utility services;

(4) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designated, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(5) Public buildings;

(6) Day care facilities serving 12 or fewer persons;

(7) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Comply with all other state licensing requirements.

(8) Group family day care facilities serving 14 or fewer children;

(9) Residential facilities serving 6 or fewer persons; and

(10) Single- and mixed-use developments which comply with § 151.048 and have received approval from the City Council.

(C) *Conditional uses*. Within the Low-Density Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Churches and other places of worship;

(2) Public or private schools having a course of instruction approved by the State Department of Education for students enrolled in K through grade 12, or any portion thereof;

(3) Day care facilities serving 13 through 16 persons;

(4) Adult day care centers as conditional use, subject to the following conditions, the adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(5) Residential facilities serving from 7 through 16 persons;

(6) Structures over 2-1/2 stories or 35 feet in height;

(7) Developments containing more than one principal structure per lot;

(8) Utility structures which do not meet the standard conditions under the permitted uses; or

(9) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Low-Density Residential Zone, the following uses shall be permitted accessory uses:

(1) Garages;

(2) Fences;

(3) Recreational equipment;

(4) Gardening and other horticultural uses not involving retail sales;

(5) Communication service apparatus/device(s) as permitted uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Swimming pools;

(7) Tennis courts;

(8) Home occupations contingent upon approval of a home occupation permit;

(9) Solar equipment; or

(10) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved

towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the ability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(11) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Low-Density Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density*: Three dwellings per acre. Streets shall be excluded in calculating acreage;

(2) *Maximum impervious surface percentage*: 50%;

(3) *Lot specifications:*

(a) *Minimum lot width*: 95 feet;

(b) *Minimum lot area*: 12,800 square feet;

(c) *Minimum front yard setback*: 35 feet;

(d) *Minimum side yard setback*: 15 feet; and

(e) *Minimum rear yard setback*: 40 feet.

(4) *Maximum height*: No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.26) (Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 763, passed 6-15-2006; Ord. 793, passed 3-27-2008; Ord. 813, passed 2-26-2009; Ord. 903, passed 3-17-2015)

§ 151.034 URBAN RESIDENTIAL ZONE (R-1B).

(A) *Purpose*. The purpose of the Urban Residential Zone is to provide an area for residential development where public sanitary sewer and water are available.

(B) *Permitted uses*. Within the Urban Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Single-family detached dwellings;

(2) Existing single-family attached dwellings up to a maximum of 2 dwellings;

(3) Public recreation;

(4) Utility services;

(5) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(6) Public buildings;

(7) Day care facilities serving 12 or fewer persons;

(8) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Comply with all other state licensing requirements.

(9) Group family day care facilities serving 14 or fewer children;

(10) Residential facilities serving 6 or fewer persons;

(11) Single-family detached residences previously constructed as accessory uses to a church, where the resulting lot meets the

design standards found in division (E) below;

(12) Single- and mixed-use developments which comply with § 151.048 and have received approval from the City Council;

(13) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Urban Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Churches and other places of worship;

(2) Cemeteries;

(3) Public or private schools having a course of instruction approved by the State Board of Education for students enrolled in K through grade 12, or any portion thereof;

(4) Bed and breakfast inns;

(5) Day care facilities serving 13 through 16 persons;

(6) Adult day care centers as permitted uses, subject to the following conditions. The adult day centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(7) Residential facilities servicing from 7 through 16 persons;

(8) Structures over 2-1/2 stories or 35 feet in height;

(9) Developments containing more than one principal structure per lot;

(10) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit;

(11) Assisted living housing facility; or

(12) Utility structures which do not meet the standard conditions under the permitted uses.

(D) *Permitted accessory uses.* Within the Urban Residential Zone, the following uses shall be permitted accessory uses:

(1) Garages;

(2) Fences;

(3) Recreation equipment;

(4) Gardening and other horticultural uses not involving retail sales;

(5) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Swimming pools;

(7) Tennis courts;

(8) Home occupations contingent upon approval of a home occupation permit;

(9) Solar equipment; or

(10) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(11) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Urban Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density*: 5 dwellings per acre. Streets shall be excluded in calculating acreage;

(2) *Maximum impervious surface percentage*: 50%;

(3) *Lot specifications*.

(a) *Minimum lot width (single-family detached)*: 60 feet;

(b) *Minimum lot width for single family detached corner lots:* 60 feet;

(c) *Existing two-family dwelling*: 70 feet;

(d) *Minimum lot depth*: 100 feet;

(e) *Minimum front yard setback*: 30 feet;

(f) *Minimum side yard setback*: 10 feet; and

(g) *Minimum rear yard setback*: 30 feet.

(4) *Maximum height*. No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.28) (Ord. 31, passed 10-25-1979; Ord. 60, passed 5-14-1981; Ord. 159, passed 2-28-1985; Ord. 264, passed 5-26-1989; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 496, passed 8-21-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 813, passed 2-26-2009; Ord. 815, passed 3-26-2009; Ord. 865, passed 3-5-2013; Ord. 903, passed 3-17-2015; Ord. 950, passed 11-15-2016)

§ 151.035 OLD SHAKOPEE RESIDENTIAL ZONE (R-1C).

(A) *Purpose*. The purpose of the Old Shakopee Residential Zone is to provide an area for the continuation of existing residential development and development of existing lots in the older residential areas where public sanitary sewer and water are available. The combination of small lots is encouraged.

(B) *Permitted uses*. Within the Old Shakopee Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Single-family detached dwellings;

(2) Single-family attached dwellings, up to a maximum of 2 dwellings;

(3) Public recreation;

(4) Utility services;

(5) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(6) Public buildings;

(7) Day care facilities serving 12 or fewer persons;

(8) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Comply with all other state licensing requirements.

(9) Group family day care facilities serving 14 or fewer children;

(10) Residential facilities serving 6 or fewer persons;

(11) Single-family detached residences previously constructed as accessory uses to a church, where the resulting lot meets the design standards found in division (E) below;

(12) Single- and mixed-use developments which comply with § 151.048 and have received approval from the City Council;

(13) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure in compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide to the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of the relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Old Shakopee Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Over-sized accessory structures as determined by § 151.007(B)(2);

(2) Churches and other places of worship;

(3) Cemeteries;

(4) Hospitals and clinics;

(5) Public or private schools having a course of instruction approved by the State Board of Education for students enrolled in K through grade 12, or any portion thereof;

(6) Bed and breakfast inns;

(7) Funeral homes;

(8) Day care facilities serving 13 through 16 persons;

(9) Adult day care centers as conditional uses, subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(10) Residential facilities servicing from 7 through 16 persons;

(11) Structures over 2-1/2 stories or 35 feet in height;

(12) Developments containing more than one principal structure per lot; or

(13) ***SENIOR HOUSING FACILITIES***, which are defined as housing facilities with or without assisted living services, that are intended to serve persons greater than 55 years of age, not including nursing homes, subject to the following conditions:

(a) Minimum lot size of 0.75 acres;

(b) Maximum density of 45 units/acre;

(c) Maximum height is equal to the maximum height set forth by the design standards of the R-1C, Old Shakopee Residential Zone;

(d) Minimum structure setbacks are equivalent to R-1C setback regulations, except that the minimum side yard setback must be at least one-half of the building height;

(e) Maximum impervious surface percentage of 70%; and

(f) Building design and materials must meet minimum requirements set forth in §§ 151.105 through 151.125.

(14) Utility structures which do not meet the standard conditions under the permitted uses; or

(15) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Old Shakopee Residential Zone, the following uses shall be permitted accessory uses:

(1) Garages;

(2) Fences;

(3) Recreation equipment;

(4) Gardening and other horticultural uses not involving retail sales;

(5) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major playfields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Swimming pools;

(7) Tennis courts;

(8) Home occupations contingent upon approval of a home occupation permit;

(9) Solar equipment; or

(10) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time

of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(q) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory/facilities shall be responsible for the removal of facilities and restoration of the site; and

(r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(11) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Old Shakopee Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density*: 7-1/2 dwellings per acre. Streets shall be excluded in calculating acreage;

(2) *Maximum impervious surface percentage*: 50%;

(3) *Lot specifications*:

(a) *Minimum lot width (single-family detached)*: 50 feet;

(b) *Two-family dwelling*: 70 feet;

(c) *Minimum lot depth*: 100 feet;

(d) *Minimum front yard setback*:

1. Thirty feet, except that the minimum setback shall be equal to the average setback of other principal structures on the

block when the applicant proves that there are more than 2 other existing principal structures on the block, and those structures have an average setback of less than 30 feet; or

2. If there are fewer than 3 other existing principal structures on the block, the setback is 30 feet.

(e) *Minimum street side yard setback*: 10 feet, except that the minimum setback shall be equal to the average street side yard setback of other principal structures on the block when the applicant proves that the other existing principal structures have an average setback of less than 10 feet;

(f) *Minimum interior side yard setback*: 5 feet, or one side at 3 feet and the other side at 7 feet;

(g) *Minimum rear yard setback*: 30 feet; and

(h) *Minimum rear yard setback for accessory structures*: 5 feet.

(4) *Maximum height*. No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.30) (Ord. 31, passed 10-25-1979; Ord. 60, passed 5-14-1981; Ord. 159, passed 2-28-1985; Ord. 264, passed 5-26-1989; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 470, passed 1-1-1997; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 496, passed 8-21-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 899, passed 1-20-2015; Ord. 903, passed 3-17-2015)

§ 151.036 MEDIUM-DENSITY RESIDENTIAL ZONE (R-2).

(A) *Purpose*. The purpose of the Medium-Density Residential Zone is to provide an area which will allow 5.01 to 8 residential dwellings per acre and also provide a transitional zone between single-family residential areas and other land uses.

(B) *Permitted uses*. Within the Medium-Density Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Public recreation;

(2) Utility services;

(3) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(4) Public buildings;

(5) Day care facilities serving 12 or fewer persons;

(6) Adult day care centers as permitted uses, subject to the following conditions: The adult day care center shall:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space; and

(e) Comply with all other state licensing requirements.

(7) Residential facilities serving 6 or fewer persons;

(8) Townhouses containing 2 or 4 dwelling units;

(9) Single-family detached dwellings;

(10) Single-family attached dwelling units up to a maximum of 4 dwellings;

(11) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council;

(12) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Medium-Density Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Single-family attached dwellings and multiple-family dwellings up to a maximum of 6 units;

(2) Townhouses containing 5 and 6 dwelling units;

(3) Hospitals and clinics;

(4) Cemeteries;

(5) Churches and other places of worship;

(6) Public or private schools having a course of instruction approved by the State Board of Education for students enrolled in K through grade 12, or any portion thereof;

(7) Nursing homes;

(8) Bed and breakfast inns;

(9) Day care facilities serving from 13 through 16 persons;

(10) Adult day care centers as conditional use, subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(11) Residential facilities serving from 7 through 16 persons;

(12) Structures over 2-1/2 stories or 35 feet in height;

(13) Developments containing more than one principal structure per lot;

(14) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit; or

(15) Assisted living housing facility; or

(16) Utility structures which do not meet the standard conditions under the permitted uses.

(D) *Permitted accessory uses*. Within the Medium-Density Residential Zone, the following uses shall be permitted accessory uses:

(1) Open off-street parking spaces not to exceed 3 spaces per dwelling unit;

(2) Garages;

(3) Fences;

(4) Gardening and other horticultural uses not involving retail sales;

(5) Communication service apparatus/devices, as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Swimming pools;

(7) Tennis courts;

(8) Receive-only satellite dish antennas and other antennas;

(9) Home occupations contingent upon approval of a home occupation permit;

(10) Solar equipment; or

(11) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing

or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) 1. All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state.

2. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site.

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(12) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Medium-Density Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Density*. A minimum of 5.1 and a maximum of 8 dwellings per acre. Streets shall be excluded in calculating acreage;

(2) *Maximum impervious surface percentage*. 60%;

(3) *Lot specifications*:

(a) 1. *Minimum lot width (single-family detached)*: 60 feet;

2. *Two-family dwelling*: 70 feet; and

3. *Multiple-family dwelling*: 100 feet.

(b) *Minimum lot depth*: 100 feet;

(c) 1. *Minimum front yard setback*: 35 feet; and

2. *Minimum side yard setback*: 10 feet.

(d) *Maximum height*: No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements*.

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.32) (Ord. 31, passed 10-25-1979; Ord. 60, passed 5-14-1981; Ord. 159, passed 2-28-1985; Ord. 264, passed 5-26-1989; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 467, passed 12-19-1996; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 544, passed 4-15-1999; Ord. 563, passed 11-25-1999; Ord. 603, passed 8-2-2001; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 813, passed 2-26-2009; Ord. 865, passed 3-5-2013; Ord. 903, passed 3-17-2015)

§ 151.037 PLANNED RESIDENTIAL DISTRICT (PRD).

(A) *Purpose*.

(1) The purpose of the Planned Residential District (PRD) is to provide areas for the mixed-use development; including single-family detached, medium-density, and high-density residential, as well as compatible community commercial and service uses. By allowing mixed-use development, the PRD provides a mechanism for providing a range of housing types and easy accessibility to services either within a single development or area of the city.

(2) No property in the city shall be re-zoned to PRD after May 18, 2004. The substantive provisions in the section shall apply only to those properties that are zoned PRD as of that date.

(B) *Permitted uses*. Within the Planned Residential District, the following shall be permitted uses:

(1) Single-family detached dwellings;

(2) Single-family attached dwellings up to a maximum of 2 dwellings;

(3) Public recreation;

(4) Utility services;

(5) Day care facilities servicing 12 or fewer persons;

(6) Public buildings;

(7) Group family day care facilities serving 14 or fewer children;

(8) Residential facilities serving 6 or fewer persons;

(9) Adult day care centers subject to the following conditions:

(a) Serve 12 or fewer persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) The outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff;

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space; and

d. Comply with all other state licensing requirements.

(10) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Uses permitted with a conditional use permit*. Within the Planned Residential District, the following uses of structures or land may be allowed with conditional use permit approval:

(1) Medium-density residential development as allowed under § 151.036, Medium-Density Residential Zone, and according to the design standards contained therein;

(2) Multiple-family residential development as allowed under § 151.038 and according to the design standards contained therein;

(3) Community commercial development as allowed under § 151.039 and according to the design standards contained therein;

(4) Clinics;

(5) Nursing homes;

(6) Churches and other places of worship;

(7) Public or private schools;

(8) Structures over 2-1/2 stories or 35 feet in height;

(9) Developments containing more than one principal structure per lot;

(10) Developments containing more than one permitted use and/or use permitted with site plan approval;

(11) Day care facilities serving 13 or more persons;

(12) Residential facilities servicing from 7 through 16 persons; and

(13) Other uses similar to those permitted in this division (C), as determined by the Board of Adjustment and Appeals.

(D) *Permitted accessory uses*. Within the Planned Residential District the following uses shall be permitted accessory uses:

(1) Any incidental repair or processing necessary to conduct a permitted principal use;

(2) Parking and loading spaces;

(3) Temporary construction buildings;

(4) Decorative landscape features;

(5) Communication service apparatus/devices(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s)/apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs:

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication device(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(7) Other accessory uses customarily appurtenant to a permitted or conditional use, as determined by the Zoning Administrator.

(E) *Design standards*. Except as otherwise provided above, design standards in the Planned Residential District shall be as found in § 151.034, Urban Residential Zone (R-1B).

(2013 Code, § 11.33) (Ord. 563, passed 11-25-1999; Ord. 704, passed 5-27-2004; Ord. 793, passed 3-27-2008; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009)

§ 151.038 MULTIPLE-FAMILY RESIDENTIAL ZONE (R-3).

(A) *Purpose*. The purpose of the Multiple-Family Zone is to provide an area which will allow 8 and one-one hundredth to 12 multiple-family dwelling units per acre, and also provide a transitional zone between single-family residential areas, medium-density residential areas, and other land uses.

(B) *Permitted uses*. Within the Multiple-Family Residential Zone, no structure or land shall be used except for one or more of the following uses:

(1) Multiple family, single-family attached, dwellings, and townhouses containing 2 or more units;

(2) Public recreation;

(3) Utility services;

(4) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(5) Public buildings;

(6) Day care facilities serving 12 or fewer persons;

(7) Residential facilities serving 6 or fewer persons;

(8) Single-family detached residences previously constructed as accessory uses to a church, where the resulting lot meets the design standards found in § 151.034(E);

(9) Single-family detached dwellings;

(10) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council;

(11) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city

to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(12) Assisted living housing facilities, subject to the following requirements:

(a) Up to 20% of the facilities' units may be independent living units; and

(b) Only the independent living units shall be considered for purposes of calculating the maximum density.

(C) *Conditional uses*. Within the Multiple-Family Residential Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Nursing homes;

(2) Churches and other places of worship;

(3) Cemeteries;

(4) Hospitals and clinics;

(5) Public or private schools having a course of instruction approved by the State Department of Education for students enrolled in K through grade 12, or any portion thereof;

(6) Bed and breakfast inns;

(7) Day care facilities serving from 13 through 16 persons;

(8) Adult day care center as conditional use, subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(9) Residential facilities serving from 7 through 16 persons;

(10) Structures over 2-1/2 stories or 35 feet in height;

(11) Developments containing more than one principal structure per lot;

(12) Utility structures which do not meet the standard conditions under the permitted uses; or

(13) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Multiple-Family Residential Zone, the following uses shall be permitted accessory uses:

(1) Open off-street parking spaces not to exceed 3 spaces per dwelling unit;

(2) Garages;

(3) Fences;

(4) Gardening and other horticultural uses not involving retail sales;

(5) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Swimming pools;

(7) Tennis courts;

(8) Receive-only satellite dish antennas and other antennas;

(9) Home occupations contingent upon approval of a home occupation permit;

(10) Solar equipment;

(11) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(12) Other uses similar to those permitted by this division (D), as determined by the Zoning Administrator.

(E) *Design standards*. Within the Multiple-Family Residential Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Density*.

(a) *Generally*. A minimum of 8.01 and a maximum of 12 dwellings per acre. Streets shall be excluded in calculating acreage; and

(b) *Density bonuses in Planned Unit Developments (PUDs)*. In the event that a proposed PUD in the R-3 Zone exceeds the requirements for parking or open space, the City Council may grant a density bonus of up to 2 dwelling units per acre to allow a density of up to 14 dwelling units per acre.

(2) *Maximum impervious surface percentage*: 60%;

(3) *Lot specifications*.

(a) 1. *Minimum lot size*: One acre;

2. *Minimum lot width*: 150 feet; and

3. *Minimum lot depth*: 200 feet.

(b) *Minimum front yard setback*: 50 feet;

(c) *Minimum side yard setback*: One-half of building height or 15 feet, whichever is greater. All multiple-family residential structures 30 feet or greater in height shall be setback a minimum of 4 times the height of the structure from the nearest Low-Density Residential (R-1A), Urban Residential (R-1B), Old Shakopee Residential (R-1C), Medium-Density Residential (R-2), or Multiple-Family Residential (R-3) Zone line; and

(d) *Minimum rear yard setback*: 40 feet.

(4) *Maximum height:* No structure shall exceed 35 feet in height without a conditional use permit; and

(5) *Open space*: A multiple-family dwelling project shall provide at least 15% of the project area as open space, as that term is defined in § 151.048(E)(2).

(F) *Additional requirements*.

(1) Dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.34) (Ord. 31, passed 10-25-1979; Ord. 60, passed 5-14-1981; Ord. 96, passed 11-11-1982; Ord. 159, passed 2-28-1985; Ord. 203, passed 7-10-1986; Ord. 246, passed 6-17-1988; Ord. 264, passed 5-26-1989; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 496, passed 8-21-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 603, passed 8-2-2001; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 813, passed 2-26-2009; Ord. 903, passed 3-17-2015)

§ 151.039 COMMUNITY COMMERCIAL (N-C).

(A) *Purpose*. The purpose of the Community Commercial Zone is to provide areas for the development of low-intensity, service-oriented uses for surrounding the immediate residential areas. Immediate residential areas are understood to be those that are generally within five-minutes walking distance of a neighborhood commercial area.

(B) *Permitted uses*. Within the Community Commercial Zone, no structure or land shall be used except for one or more of the following uses:

(1) Retail;

(2) Administrative, executive, and professional offices;

(3) Medical or dental clinics;

(4) Services;

(5) Public buildings;

(6) Restaurants, Class I, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(7) Restaurants, Class II, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(8) Uses having a drive-up or drive-through window, subject to the following requirements:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback; and

(d) Trash receptacles, including, but not limited to, dumpsters, shall be stored in fully enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.

(9) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(10) Brewpubs.

(C) *Uses permitted with a conditional use permit.* Within the Community Commercial Zone, no structure or land shall be used for any of the following uses except after approval of a conditional use permit:

(1) Restaurants, Class I or Class II, that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(2) Taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(3) Churches;

(4) Animal hospitals and veterinary clinics;

(5) Gas stations;

(6) Bed and breakfast inns;

(7) Funeral homes;

(8) Day care facilities;

(9) Developments containing more than one principal structure per lot;

(10) Farm wineries producing less than 50,000 gallons of wine per calendar year with tasting rooms;

(11) Micro-distilleries with tasting rooms;

(12) Small breweries with taprooms;

(13) Taprooms; and

(14) Other uses similar to those permitted in this division (C), as determined by the Board of Adjustment and Appeals.

(D) *Permitted accessory uses*. Within the Community Commercial Zone, the following uses shall be permitted accessory uses:

(1) Any incidental repair or processing necessary to conduct a permitted principal use;

(2) Parking and loading spaces;

(3) Temporary construction buildings;

(4) Decorative landscape features;

(5) Communication service apparatus/devices(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s)/apparatus;

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication device(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults;

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or the communication device(s)/apparatus.

(7) Other accessory uses customarily appurtenant to a permitted or conditional use, as determined by the Zoning Administrator.

(E) *Design standards*.

(1) *Minimum lot area*: One acre;

(2) *Maximum impervious surface coverage*: 75%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 100 feet;

(b) *Building setbacks*.

1. *Minimum front yard setback*: 30 feet;
2. *Minimum side yard setback:* 20 feet;
3. *Minimum rear yard setback:* 30 feet;
4. *Minimum side or rear yard setback from residential zone*: 50 feet; and
5. *Maximum height*: 35 feet.

(c) *Dumpsters, trash handling equipment, and the like*. Dumpsters, trash handling equipment, and recycling equipment shall be stored within the principal structure, or within a fully enclosed accessory structure constructed of the same materials as the principal structure;

(d) *Exterior lighting*. Exterior lighting fixtures shall be of downcast, cut-off type; and

(e) *Parking or drive aisle setbacks*.

1. *Minimum side yard setback*: 10 feet;
2. *Minimum rear yard setback*: 10 feet; and
3. *Minimum side or rear yard setback from residential zone*: 20 feet.

(F) *Construction materials*. In the Community Commercial Zone, only the following materials may be used for the exterior finish of any principal or accessory building: face brick; stone; glass; decorative concrete block; architecturally treated concrete; cast in place or precast concrete; stucco; and materials substantially similar to these as determined by the Board of Adjustment and Appeals. Steel, aluminum, copper, or other high quality, durable metal, and wood may be used, but only as an accent, trim, or frame, and not as siding for a substantial portion of any building facade.

(2013 Code, § 11.35) (Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009; Ord. 877, passed 12-3-2013; Ord. 915, passed 9-1-2015)

§ 151.040 HIGHWAY BUSINESS ZONE (B-1).

(A) *Purpose*. The purpose of the Highway Business Zone is to provide an area for business uses fronting on or with immediate access to arterial and collector streets.

(B) *Permitted uses*. Within the Highway Business Zone, no structure or land shall be used except for one or more of the following uses:

(1) Motels and hotels;

(2) Restaurants, Class I; except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(3) Restaurants, Class II, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located.

(4) Retail establishments;

(5) Utility services;

(6) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(7) Administrative, executive, and professional offices;

(8) Financial institutions;

(9) Medical or dental clinics;

(10) Public buildings;

(11) Dwellings when combined in the same structure with another permitted use within the Highway Business Zone (B-1) along the County Road 69/State Highway 101/First Avenue corridor west of County Road 17/Marschall Road and east of Webster Street or a line running northwesterly along the eastern boundary of the Webster Street right-of-way;

(12) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council;

(13) Single-family and two-family dwellings constructed before December 31, 2003. If a single-family or two-family dwelling originally constructed before December 31, 2003 is destroyed, e.g., by fire, it may be reconstructed to a size, configuration, and style consistent with the original structure;

(14) Uses having a drive-up or drive-through window, subject to the following requirements:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback; and

(d) Trash receptacles, including, but not limited to, dumpsters, shall be stored in fully enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.

(15) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code, in the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(16) Brewpubs.

(C) *Conditional uses*. Within the Highway Business Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Restaurants, Class I or Class II, that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(2) Taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(3) Churches;

(4) Animal hospitals and veterinary clinics;

(5) Pet day care and boarding facilities;

(6) Open sales lots or any use having exterior storage of goods for sale;

(7) Gas stations;

(8) Private lodges and clubs;

(9) Commercial recreation, major or minor;

(10) Bed and breakfast inns;

(11) New vehicle sales;

(12) Used vehicle sales but only if the business is located on the same site as a new vehicle sales business authorized by the vehicle manufacturer;

(13) Vehicle service and repair, including minor and major repairs, body repair, and paint services;

(14) Vehicle rental facilities;

(15) Car washes;

(16) Hospitals;

(17) Theaters;

(18) Funeral homes;

(19) Day care facilities;

(20) Adult day care centers as conditional use, subject to the following conditions: The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(21) Housing designed to serve the needs of handicapped persons;

(22) Structures over 35 feet in height;

(23) Developments containing more than one principal structure per lot;

(24) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit;

(25) Self-storage facilities, subject to the following conditions:

(a) Shall not allow maintenance of any vehicles on-site, except for minor maintenance such as tire inflation, adding oil, wiper replacement, and battery replacement;

(b) Shall have a security system adequate to limit access to persons renting a storage site;

(c) Shall screen all storage, consistent with this code of ordinances' requirements;

(d) Shall be screened from all public rights-of-way and residential uses and/or zones, with an opaque fence, wall, or berm not to exceed 8 feet in height, constructed of new materials (chain link with slats is not an acceptable screening material), and maintained in good condition;

(e) Exterior storage shall be allowed ; provided, that it have a maximum area that does not exceed the combined footprint of the principal and accessory buildings;

(f) Shall not be located closer than 1,000 feet to any residential use and/or zone; and

(g) Shall be surfaced entirely with asphalt, concrete, or Class 5 aggregate.

(26) Public and private colleges/universities licensed by the state, subject to the following conditions:

(a) Shall be located adjacent to an arterial or collector street as identified in the comprehensive plan, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

(b) Shall have all buildings setback 50 feet from all property lines;

(c) Shall have parking facilities setback 15 feet from streets and nonresidential property, 25 feet from residential property;

(d) Shall provide one parking space per every 2 students, plus one space per every employee and member of staff, based on the time of day that experiences the greatest capacity;

(e) Shall screen parking facilities adjacent to residential property with a berm, fencing, and/or landscaping to a minimum height of 3 feet);

(f) Shall have drop-off and pick-up areas located outside of the public right-of-way, and designed to enhance vehicular and pedestrian safety;

(g) Shall have recreational areas designed for group sports activities setback 25 feet from residential property, with adequate screening to protect neighboring properties from noise, and adverse visual impacts;

(h) Shall comply with applicable design and performance standards of this code of ordinances;

(i) Shall not have any lighted playing fields unless the visual impact on residential areas can be substantially mitigated; and

(j) Shall have an impervious surface percent of no more than 60%, and the remainder of the site shall be suitably landscaped;

(27) Landscape services and contractors on properties adjacent to the CSAH 69 right- of-way in the area bounded on the north by the southernmost railroad bridge over CSAH 69 and the south by the intersection of 10th Avenue West and CSAH 69;

(28) Farm wineries producing less than 50,000 gallons of wine per calendar year;

(29) Micro-distilleries;

(30) Small breweries;

(31) Taprooms; and

(32) Utility structures which do not meet the standard conditions under the permitted uses.

(D) *Planned unit development uses*. Within the Highway Business Zone, the following uses shall be planned unit development uses: retail centers.

(E) *Permitted accessory uses*. Within the Highway Business Zone, the following uses shall be permitted accessory uses:

(1) Any incidental repair or processing necessary to conduct a permitted principal use;

(2) Parking and loading spaces;

(3) Temporary construction buildings;

(4) Decorative landscape features;

(5) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/ apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Temporary, seasonal sales of farm produced items such as fruits, vegetables, and Christmas trees with prior review and written approval from the Zoning Administrator or his or her designee, subject to the following conditions:

(a) Only 2 permits shall be allowed per year, per site. These permits shall not be issued within 3 months of each other if issued to the same organization/user;

(b) Property owner's signature is required;

(c) Operation of the seasonal sale shall not exceed 90 calendar days in length;

(d) The seasonal sales use must meet parking setbacks established by this code of ordinances;

(e) Seasonal sales use cannot inhabit any parking spaces required to meet the needs of the primary use on-site;

(f) Shall provide one off-street customer parking space for each 250 square feet of seasonal sales display area;

(g) Shall submit a scalable drawing of the proposed site showing the dimensions of the area to be used for seasonal sales, the proximity to buildings, parking lots, right-of-way, or other such area, a description of any structure, implement, stand, display, prop, or other such items intended to be used for the sale of the seasonal items;

(h) Signage is not approved as part of the seasonal sales permit. All signage must comply with the sign regulations of this chapter (see §§ 151.185 through 151.197);

(i) Application for seasonal sales permits shall be made not less than 10 business days prior to the date(s) for which the activity is scheduled and no more than 90 days prior to the proposed commencement of activity;

(j) If the applicant is aggrieved by the decision made by city staff, they may file an appeal to the BOAA of the staff's determination within 10 days of staff's decision. Furthermore, if the applicant is aggrieved by the decision of the BOAA, within 10 days of the BOAA decision, an appeal may be filed with the City Council. The City Council's determination shall be final. The appeal shall be in accordance with the approved procedures and fees adopted by the City Council;

(k) Staff may waive the fee for a seasonal sales permit application where the entire proceeds from the operation are given to charity or used for charitable purposes or are a fundraising effort for nonprofit groups. Documentation of nonprofit status shall be provided to the city prior to the approval of a fee waiver;

(l) Seasonal sales permits shall require annual review. Approvals are not carried from year to year;

(m) Shall not impair traffic visibility and should not be located in the r-o-w or the sight triangle, as calculated by this code of ordinances;

(n) The seasonal sales use shall not impair the normal, safe, and effective operation of the permanent use on the same site; and

(o) The city reserves the right under this chapter to shutdown a temporary/seasonal sales operation even after the granting of an approval if the operation is posing safety concerns, has become a nuisance, or has violated any requirement of this section or other provision of this code of ordinances.

(7) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) 1. All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city.

2. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site.

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(8) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(F) *Design standards*. Within the Highway Business Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Minimum lot size (new lots)*: One acre;

(2) *Maximum impervious surface percentage*: 75%;

(3) *Lot specifications*.

(a) *Minimum lot width (new lots)*: 100 feet;

(b) *Existing lots*: 60 feet;

(c) *Minimum front yard setback*: 30 feet;

(d) *Minimum side yard setback*: 20 feet;

(e) *Minimum rear yard setback*: 30 feet; and

(f) *Minimum side or rear yard setback from residential zones*: 75 feet.

(4) *Maximum height*: 35 feet without a conditional use permit.

(2013 Code, § 11.36) (Ord. 31, passed 10-25-1979; Ord. 150, passed 10-4-1984; Ord. 158, passed 1-31-1985; Ord. 159, passed 2-28-1985; Ord. 246, passed 6-17-1988; Ord. 264, passed 5-26-1989; Ord. 275, passed 9-22-1989; Ord. 279, passed 12-1-1989; Ord. 292, passed 9-7-1990; Ord. 320, passed 10-31-1991; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 485, passed 6-12-1997; Ord. 525, passed 12-31-1998; Ord. 528, passed 10-29-1998; Ord. 546, passed 5-6-1999; Ord. 554, passed 7-6-1999; Ord. 563, passed 11-25- 1999; Ord. 700, passed 5-6-2004; Ord. 708, passed 7-29-2004; Ord. 724, passed 2-10-2005; Ord. 736, passed 9-8-2005; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009; Ord. 830, passed 2-25- 2010; Ord. 865, passed 3-5-2013; Ord. 876, passed 11-9-2013; Ord. 877, passed 12-3-2013; Ord. 903, passed 3-17-2015; Ord. 912, passed 9-1-2015; Ord. 915, passed 9-1-2015)

§ 151.041 COMMUNITY COMMERCIAL (CC).

(A) *Purpose*. The purposes of the Community Commercial Zone are:

(1) To provide areas that allow the concentration of general commercial development for the convenience of city residents and the greater city trade area;

(2) To provide space for larger community facilities and institutions that may be appropriately located in commercial areas; and

(3) To provide adequate space to meet the parking spaces, loading, and traffic management needs of larger scale commercial development.

(B) *Permitted uses*. Within the Community Commercial Zone, no structure or land shall be used except for one or more of the following uses:

(1) Retail;

(2) Administrative, executive, and professional offices;

(3) Medical or dental clinics;

(4) Restaurants, Class I; except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(5) Restaurants, Class II, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located.

(6) Showroom facilities;

(7) Medical or dental clinics;

(8) Services;

(9) Public buildings;

(10) Uses having a drive-up or drive-through window, subject to the following requirements:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback; and

(d) Trash receptacles, including, but not limited to, dumpsters, shall be stored in fully enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.

(11) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee; and

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(12) Brewpubs.

(C) *Uses Permitted with a conditional use permit*. Within the Community Commercial Zone, no structure or land shall be used for any of the following uses except after approval of a conditional use permit:

(1) Restaurants, Class I or Class II, that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(2) Taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(3) Churches;

(4) Animal hospitals and veterinary clinics;

(5) Gas stations;

(6) Hotels and motels;

(7) Funeral homes;

(8) Day care facilities;

(9) Vehicle sales, service and repair;

(10) Developments containing more than one principal structure per lot;

(11) Structures taller than 45 feet in height;

(12) Farm wineries producing less than 50,000 gallons of wine per calendar year;

(13) Micro-distilleries;

(14) Small breweries;

(15) Taprooms; and

(16) Other uses similar to those permitted in this division (C), as determined by the Board of Adjustment and Appeals.

(D) *Uses permitted by PUD*.

(1) Retail centers; and

(2) Multiple-family dwellings.

(E) *Permitted accessory uses*. Within the Highway Business Zone, the following uses shall be permitted accessory uses:

(1) Any incidental repair or processing necessary to conduct a permitted principal use;

(2) Parking and loading spaces;

(3) Temporary construction buildings;

(4) Decorative landscape features;

(5) Communication service apparatus/devices(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s)/apparatus;

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs:

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication device(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(q) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus; and

(s) Other accessory uses customarily appurtenant to a permitted or conditional use, as determined by the Zoning Administrator.

(F) *Design standards*.

(1) *Minimum lot area*: One acre;

(2) *Maximum impervious surface coverage*: 75%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 100 feet;

(b) *Building setbacks*:

1. *Minimum front yard setback*: 50 feet;

2. *Minimum side yard setback*: 20 feet;

3. *Minimum rear yard setback*: 50 feet;

4. *Minimum side or rear yard setback from residential zone*: 100 feet; and

5. *Maximum height*: 35 feet;

(c) *Dumpsters, trash handling equipment, and the like*. Dumpsters, trash handling equipment, and recycling equipment shall be stored within the principal structure, or within a fully enclosed accessory structure constructed of the same materials as the principal structure;

(d) *Exterior lighting fixtures*. Exterior lighting fixtures shall be of downcast, cut-off type; and

(e) *Parking or drive aisle setbacks*.

1. *Minimum side yard setback*: 20 feet;

2. *Minimum rear yard setback*: 20 feet; and

3. *Minimum side or rear yard setback from residential zone*: 100 feet.

(G) *Construction materials*. In the Community Commercial Zone, only the following materials may be used for the exterior finish of any principal or accessory building: face brick; stone; glass; decorative concrete block; architecturally treated concrete; cast in place or precast concrete; stucco; and materials substantially similar to these as determined by the Board of Adjustment and Appeals. Steel, aluminum, copper, or other high quality, durable metal, and wood may be used, but only as an accent, trim, or frame, and not as siding for a substantial portion of any building facade.

(2013 Code, § 11.37) (Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009; Ord. 877, passed 12-3-

2013; Ord. 915, passed 9-1-2015)

§ 151.042 OFFICE BUSINESS ZONE (B-2).

(A) *Purpose*. The purpose of the Office Business Zone is to provide an area for offices and related service uses, in an area where general retail is excluded. The Zone is intended for areas identified in the comprehensive plan for office use or for transitional areas between residential and more intense uses.

(B) *Permitted uses*. Within the Office Business Zone, no structure or land shall be used except for one or more of the following uses:

(1) Administrative, executive, and professional offices;

(2) Financial institutions;

(3) Utility services;

(4) Utility service structures, subject to the following requirements;

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(d) Shall comply with all applicable design standards.

(5) Medical or dental clinics;

(6) Public buildings;

(7) Single- and mixed-use developments which comply with §§ 151.105 through 151.125, and have received approval from the City Council.

(8) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(d) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(e) An approved county highway moving permit will be required for the moving of the structure;

(f) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(g) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(C) *Conditional uses*. Within the Office Business Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Retail uses generally associated with a permitted use;

(2) Restaurants, Class I or Class II, contained within a principal structure and oriented toward serving employees or those working in the immediate area;

(3) Storage, assembly, or servicing incidental to a permitted use;

(4) Hotels and motels;

(5) Commercial recreation, minor, but limited to health and athletic facilities;

(6) Hospitals;

(7) Multiple-family housing;

(8) Day care facilities;

(9) Adult day care centers as conditional use, subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(10) Structures over 55 feet in height;

(11) Developments containing more than one principal structure per lot;

(12) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit;

(13) Utility structures which do not meet the standard conditions under the permitted uses; or

(14) Churches and other places of worship.

(D) *Permitted accessory uses*. Within the Office Business Zone, the following uses shall be permitted accessory uses:

(1) Parking and loading spaces;

(2) Temporary construction buildings;

(3) Decorative landscaping features;

(4) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(5) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(q) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(6) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Office Business Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*.

(a) *Minimum lot area*: one acre; and

(b) *Maximum floor area ratio*: .50.

(2) *Maximum impervious surface percentage*: 75%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 100 feet;

(b) *Minimum front yard setback*: 30 feet;

(c) *Minimum side yard setback*: 20 feet;

(d) *Minimum rear yard setback*: 30 feet; and

(e) *Minimum side or rear yard setback from residential zones*: 50 feet.

(4) *Maximum height*: 55 feet without a conditional use permit.

(2013 Code, § 11.38) (Ord. 377, passed 7-7-1994; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009; Ord. 903, passed 3-17-2015; Ord. 927, passed 1-19-2016)

§ 151.043 CENTRAL BUSINESS ZONE (B-3).

(A) *Purpose*. The purpose of the Central Business Zone is to provide a zone which accommodates the unique character of the central business area in terms of land uses and development patterns.

(B) *Permitted uses*. Within the Central Business Zone, no structure or land shall be used except for one or more of the following uses:

(1) Retail establishments;

(2) Public buildings;

(3) Medical or dental clinics;

(4) Utility services;

(5) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards.

(6) Dwellings when combined with another permitted use;

(7) Restaurants, Class I; except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(8) Restaurants, Class II, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located.

(9) Administrative, executive, and professional offices;

(10) Financial institutions;

(11) Hotels;

(12) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council.

(13) Uses having a drive-up or drive-through window, subject to the following requirements:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback; and

(d) Trash receptacles, including, but not limited to, dumpsters, shall be stored in fully enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.

(14) Relocated structures, subject to the following requirements:

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(15) Brewpubs.

(C) *Conditional uses*. Within the Central Business Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Restaurants, Class I or Class II, that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(2) Commercial recreation, minor;

(3) Theaters;

(4) Bus terminals and taxi stands;

(5) Multiple-family dwellings which are not attached to a permitted use;

(6) Printing or publishing facilities;

(7) Private lodges and clubs;

(8) Parking facilities open to the public;

(9) Animal hospitals and veterinary clinics;

(10) Taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(11) Gas stations;

(12) Bed and breakfast inns;

(13) Funeral homes;

(14) Day care facilities;

(15) Adult day care centers as conditional use, subject to the following conditions: The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(16) Structures over 45 feet in height;

(17) Developments containing more than one principal structure per lot;

(18) Farm wineries producing less than 50,000 gallons of wine per calendar year with tasting rooms;

(19) Micro-distilleries with tasting rooms;

(20) Small breweries with taprooms;

(21) Utility structures which do not meet the standard conditions under the permitted uses;

(22) Churches and other places of worship; or

(23) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Central Business Zone, the following uses shall be permitted accessory uses:

(1) Any incidental repair or processing necessary to conduct a permitted principal use;

(2) Private garages or off-street parking;

(3) Temporary construction buildings;

(4) Decorative landscape features;

(5) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure. Any co-located apparatus/device shall not extend more than 2 feet above the facade, parapet, roof, or other portion of any structure. Such co-located apparatus/device shall be designed and located in such a way that its appearance and surface finish minimizes visibility off-site;

(b) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(c) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(d) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(e) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(f) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(g) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(h) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(i) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(r) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(s) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus.

(7) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Central Business Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*.

(a) *Minimum lot area*: 3,000 square feet; and

(b) *Maximum floor area ratio*: 4.0.

(2) *Maximum impervious surface percentage*: 100%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 20 feet;

(b) *Minimum front yard setback*: Zero feet;

(c) *Minimum side yard setback*: Zero feet; and

(d) *Minimum rear yard setback*: Zero feet

(4) *Maximum height*: 45 feet without a conditional use permit.

(2013 Code, § 11.40) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 117, passed 4-28-1983; Ord. 159, passed 2-28-1985; Ord. 246, passed 6-17-1988; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 498, passed 9-4-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 597, passed 4-26-2001; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009; Ord. 877, passed 12-3-2013; Ord. 903, passed 3-17-2015; Ord. 915, passed 9-1-2015; Ord. 927, passed 1-19-2016)

§ 151.044 MAJOR RECREATION ZONE (MR).

(A) *Purpose*. The purpose of the Major Recreation Zone is to create a high quality environment for large amusement and recreation attractions with a regional draw, with a high degree of land use compatibility and street efficiency. It is further the intent of the Zone to protect existing landscape features, to preserve open space, to sensitively integrate development with the natural landscape, and to require the planning of entire land ownerships as a unit rather than permit piecemeal or scattered small developments.

(B) *Permitted uses*. Within the Major Recreation Zone, no structure or land shall be used except for one or more of the following uses:

(1) Public recreation;

(2) Restaurants, Class I; except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(3) Restaurants, Class II, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located.

(4) Public buildings;

(5) Utility services;

(6) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive;

(e) Shall comply with all applicable design standards; and

(f) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council;

(7) Uses having a drive-up or drive-through window, subject to the following requirements:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback;

(d) Trash receptacles, including, but not limited to, dumpsters, shall be stored in any enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.

(8) Relocated structures, subject to the following requirements

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(9) Brewpubs.

(10) Taverns, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located.

(C) *Conditional or planned unit development uses*. Within the Major Recreation Zone, no structure or land shall be used for the following uses except by conditional use permit or planned unit development:

(1) Restaurants, Class I or Class II, that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(2) Commercial recreation, major or minor:

(3) Hotels, motels, and conference centers;

(4) Horse care uses including boarding, training, showing, grooming, and veterinary clinic facilities;

(5) Retail uses and entertainment facilities;

(6) Administrative, executive, and professional offices;

(7) Health and athletic facilities;

(8) Private lodges and clubs;

(9) Day care facilities;

(10) Adult day care centers as conditional use, subject to the following conditions: The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi-functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(11) Structures over the height allowed based on their setback;

(12) Developments containing more than one principal structure per lot;

(13) Farm wineries producing less than 50,000 gallons of wine per calendar year;

(14) Micro-distilleries;

(15) Small breweries with taprooms;

(16) Utility structures which do not meet the standard conditions under the permitted uses;

(17) Power generation facilities;

(18) Churches and other places of worship;

(19) Taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013; or

(20) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Major Recreation Zone, the following uses shall be permitted accessory uses:

(1) Parking and loading spaces;

(2) Temporary construction buildings;

(3) Decorative landscape features;

(4) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(5) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:

(a) Shall also operate as a public utility structure;

(b) Shall be located within the public rights-of-way;

(c) Shall be limited to 75 feet in height;

(d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;

(e) No setback shall be required when located in the public rights-of-way;

(f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

(g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(h) Shall be protected with corrosive resistant material;

(i) Signage shall not be allowed on the tower other than danger or warning type signs;

(j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(k) Must be built to accommodate antennas being placed at varying heights on the tower;

(l) Existing vegetation on the site shall be preserved to the maximum extent possible;

(m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned

equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(q) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and

(r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device (s)/apparatus.

(6) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Major Recreation Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*: minimum lot area: 10 acres;

(2) *Maximum impervious surface percentage*: 80%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 300 feet;

(b) *Minimum front yard setback*: 1/2 of that structure's height or 50 feet, whichever is greater;

(c) *Minimum side yard setback*: 1/2One-half of that structure's height or 25 feet, whichever is greater;

(d) *Minimum rear yard setback*: 1/2 of that structure's height or 30 feet, whichever is greater; and

(e) *Minimum rear yard setback from residential zones*: 1/2 of that structure's height or 50 feet, whichever is greater.

(4) *Minimum access spacing*.

(a) County Roads 83 and 16: no access is allowed other than to public and private streets with a minimum spacing of 600 feet; and

(b) Shenandoah Drive and any continuation thereof to and including Secretariat Drive; and Fourth Avenue. Street and driveway access points must be separated by a minimum of 300 feet.

(2013 Code, § 11.42) (Ord. 204, passed 7-31-1986; Ord. 264, passed 5-26-1989; Ord. 328, passed 1-30-1992; Ord. 342, passed 10-29-1992; Ord. 377, passed 7-7-1994; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 813, passed 2-26-2009; Ord. 877, passed 12-3-2013; Ord. 903, passed 3-17-2015; Ord. 909, passed 8-18-2015; Ord. 915, passed 9-1-2015; Ord. 927, passed 1-19-2016)

§ 151.045 LIGHT INDUSTRY ZONE (I-1).

(A) *Purpose*. The purpose of the Light Industry Zone is to provide an area for industrial, light manufacturing, and office uses which are generally not obtrusive and which serve as a transition between more intensive industrial sites and residential and business land uses.

(B) *Permitted uses*. Within the Light Industry Zone, no structure or land shall be used except for one or more of the following uses:

(1) Warehousing and wholesaling conducted entirely within an enclosed building, except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(2) Research laboratories conducted entirely within an enclosed building;

(3) Establishments supplying goods or services primarily to industrial uses;

(4) Agricultural uses, but limited to the growing of field crops;

(5) Utility services;

(6) Utility service structures;

(7) Offices within the principal structure and directly associated with another permitted use;

(8) Public buildings;

(9) Single- and mixed-use developments which comply with section § 151.048, and have received approval from the City Council;

(10) Office buildings;

(11) Breweries;

(12) Distilleries; or

(13) Wineries.

(C) *Conditional uses*. Within the Light Industry Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Manufacturing, fabrication, processing, and assembly operations conducted entirely within an enclosed building, except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(2) Airports and heliports;

(3) Vehicle repair;

(4) Landscaping services and contractors;

(5) Retail sales of products manufactured, fabricated, assembled, or stored on-site;

(6) Commercial vehicle rental facilities;

(7) Self-storage facilities;

(8) Industrial or technical training schools;

(9) Restaurants, Class I or Class II, contained within a principal structure and oriented toward serving employees or those working in the immediate area;

(10) Residences for security personnel;

(11) Exterior storage;

(12) Day care facilities;

(13) Adult day care center as conditional use subject to the following conditions. The adult day care centers shall:

(a) Serve 13 or more persons;

(b) Provide proof of an adequate water and sewer system if not served by municipal utilities;

(c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;

(d) 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi- functional organization if the required space available for use by participants is maintained while the center is operating.

2. In determining the square footage of usable indoor space available, a center must not count:

a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;

b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or

c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.

(e) Provide proof of state, federal, and other governmental licensing agency approval; and

(f) Comply with all other state licensing requirements.

(14) Structures over 45 feet in height;

(15) Developments containing more than one principal structure per lot;

(16) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit;

(17) Communication service towers as conditional uses, subject to the following conditions:

(a) Shall be a monopole structure;

(b) The location of the tower shall comply with the minimum setback requirements of the zone in which it is to be located. Towers located closer to a property line than a distance equal to the height of the tower shall be designed and engineered to collapse within the distance between the tower and the property line and supporting documentation shall be provided to prove this by a professional engineer;

(c) Shall not exceed 175 feet in total height (including the extension of any antenna);

(d) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(e) Shall be protected with corrosive resistant material;

(f) Signage shall not be allowed on the tower other than danger or warning type signs;

(g) Must provide proof from a professional engineer that the equipment is not able to be co-located on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(h) Must be built to accommodate antennas being placed at varying heights on the tower;

(i) Existing vegetation on the site shall be preserved to the maximum extent possible;

(j) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(k) Shall be located and have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(l) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(m) Equipment and buildings shall be screened from view by suitable landscaping, except where a design of non-vegetative screening better reflects and compliments the architectural character of the surrounding neighborhood;

(n) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(o) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its

original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and the restoration of the site;

(p) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus;

(q) When towers are to be located in city parks, no towers should be located in designated conservation areas such as forest areas, marsh lands, wildlife preserves, nature center parks, picnic areas, near historical structures, scenic open space areas, and areas of intense recreational play for children (play fields, swimming pools, playground equipment, and the like);

(r) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use;

2. Commercial recreation areas and major play fields used primarily by adults; and

3. All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(18) Retail auto sales, subject to the following conditions:

(a) Limit the percentage of retail sales to no more than 20% of the business;

(b) Must serve as an accessory use of the principle use;

(c) Vehicle retail sales limited to used automobiles only;

(d) No person shall operate a retail auto sales business on property, any part of which is within 200 feet from any property developed or zoned for residential uses;

(e) Shall not store any vehicles which are unlicensed and inoperative for more than 7 days, except in appropriately designed and screened storage areas;

(f) Shall conduct all repair, assembly, disassembly, or maintenance of vehicles within a building, except for minor maintenance such as tire inflation, adding oil and wiper replacement;

(g) Shall not have any outside storage or display except of vehicles for sale;

(h) Shall not have a public address system which is audible from any residential property;

(i) Shall screen all storage areas;

(j) Shall screen all display areas adjacent to a residential zone;

(k) Shall apply the parking setback to all areas where vehicles are located;

(l) Shall maintain a landscaped buffer 100 feet wide from any residential zone;

(m) All motor vehicle dealers shall be licensed by the state; and

(n) Vehicle sales area is to be paved.

(19) Power generation facilities;

(20) Taprooms; and

(21) Winery/distillery tasting rooms.

(D) *Permitted accessory uses*. Within the Light Industry Zone, the following uses shall be permitted accessory uses:

(1) Parking and loading spaces;

(2) Temporary construction buildings;

(3) Decorative landscape features; and

(4) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(5) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Light Industry Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*.

(a) *Minimum lot area (with city services)*: One acre; and

(b) *Minimum lot area (without city services)*: 20 acres.

(2) *Maximum impervious surface percentage*: 75%;

(3) *Lot specifications*.

(a) *Minimum lot width (with city services)*: 100 feet;

(b) *Minimum lot width (without city services)*: 600 feet;

(c) *Minimum front yard setback*: 30 feet;

(d) *Minimum side yard setback*: 15 feet;

(e) *Minimum rear yard setback*: 30 feet;

(f) *Minimum side or rear yard setback from residential zones*: 100 feet.

(4) *Maximum height*: 45 feet without a conditional use permit.

(2013 Code, § 11.44) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 138, passed 11-24-1983; Ord. 186, passed 1-30-1986; Ord. 203, passed 7-10-1986; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994; Ord. 429,

passed 11-2-1995; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-5-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 601, passed 6-28-2001; Ord. 816, passed 4-30-2009; Ord. 877, passed 12-3-2013; Ord. 909, passed 8-18-2015)

§ 151.046 HEAVY INDUSTRY ZONE (I-2).

(A) *Purpose*. The purpose of the Heavy Industry Zone is to provide an area for industrial uses in locations remote from residential uses and in which urban services and adequate transportation exist.

(B) *Permitted uses*. Within the Heavy Industry Zone, no structure or land shall be used except for one or more of the following uses:

(1) Motor freight terminals;

(2) Manufacturing, fabrication, processing, assembly, and storage operations, except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(3) Warehousing and wholesaling;

(4) Commercial vehicle rental facilities;

(5) Research laboratories, except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(6) Contractors' supply yards;

(7) Retail sales of heavy industrial, manufacturing, or construction machinery or equipment;

(8) Agricultural uses, but limited to the growing of field crops;

(9) Utility services;

(10) Utility service structures;

(11) Landscaping services and contractors;

(12) Establishments supplying goods or services to industrial users;

(13) Public buildings;

(14) Adult establishments;

(15) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council;

(16) Breweries;

(17) Distilleries; or

(18) Wineries.

(C) *Conditional uses*. Within the Heavy Industry Zone, no structure or land shall be used for the following uses except by conditional use permit:

(1) Manufacturing, fabrication, processing, assembly, and storage operations, and research laboratories, that fit within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(2) Retail sales of products manufactured, fabricated, assembled, or stored on-site;

(3) Concrete or asphalt plants;

(4) Airports and heliports;

(5) Grain elevators;

(6) Junkyards;

(7) Residences for security personnel;

(8) Vehicle repair;

(9) Restaurants, Class I or Class II, contained within a principal structure and oriented toward serving employees or those working in the immediate area;

(10) Recycling or composting facilities;

(11) Exterior storage;

(12) Structures over 45 feet in height;

(13) Developments containing more than one principal structure per lot;

(14) Offices occupying more than 35% of the principal structure and directly associated with a permitted use;

(15) Exhibit spaces, educational facilities, and interpretive centers, whether publicly or privately operated;

(16) Communication service towers as conditional uses, subject to the following conditions:

(a) Shall be a monopole structure;

(b) The location of the tower shall comply with the minimum setback requirements of the zone in which it is to be located. Towers located closer to a property line than a distance equal to the height of the tower shall be designed and engineered to collapse within the distance between the tower and the property line supporting documentation shall be provided to prove this by a professional engineer;

(c) Shall not exceed 175 feet in total height (including the extension of any antenna);

(d) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(e) Shall be protected with corrosive resistant material;

(f) Signage shall not be allowed on the tower other than danger or warning type signs;

(g) Must provide proof from a professional engineer that the equipment is not able to be co-located on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(h) Must be built to accommodate antennas being placed at varying heights on the tower;

(i) Existing vegetation on the site shall be preserved to the maximum extent possible;

(j) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(k) Shall be located and have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(l) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(m) Equipment and buildings shall be screened from view by suitable landscaping, except where a design of non-vegetative screening better reflects and compliments the architectural character of the surrounding neighborhood;

(n) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(o) All obsolete or unused towers and accompanying accessory facilities shall be removed within months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and the restoration of the site.

(p) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus;

(q) When towers are to be located in city parks, no towers should be located in designated conservation areas such as forest areas, marshlands, wildlife preserves, nature center parks, picnic areas, near historical structures, scenic open space areas, and areas of intense recreational play for children (play fields, swimming pools, playground equipment, and the like);

(r) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults;

(s) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(17) Power generation facilities;

(18) Taprooms;

(19) Winery/distillery tasting rooms; or

(20) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*. Within the Heavy Industry Zone, the following uses shall be permitted accessory uses:

(1) Parking and loading spaces;

(2) Temporary construction buildings;

(3) Decorative landscape features;

(4) Offices occupying up to 35% of the principal structure and directly associated with a permitted use;

(5) Communication service apparatus/devices(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults;

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(6) Silos; and

(7) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(E) *Design standards*. Within the Heavy Industry Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*: Minimum lot area: One acre;

(2) *Maximum impervious surface percentage*: 85%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 100 feet;

(b) *Minimum front yard setback*: 30 feet;

(c) *Minimum side yard setback*: 15 feet;

(d) *Minimum rear yard setback*: 30 feet:

(e) *Minimum side or rear yard setback from residential zones*: 100 feet; and

(f) *Minimum side or rear yard setback from railroad right-of-way:* Zero feet.

(4) *Maximum height*: 45 feet without a conditional use permit.

(2013 Code, § 11.46) (Ord. 31, passed 10-25-1979; Ord. 59, passed 5-14-1981; Ord. 96, passed 11-11-1982; Ord. 138, passed 11-24-1983; Ord. 158, passed 1-31-1985; Ord. 203, passed 7-10-1986; Ord. 246, passed 6-17-1988; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 334, passed 5-21-1992; Ord. 377, passed 7-7-1994; Ord. 429, passed 11-2-1995; Ord. 479, passed 3-13-1997; Ord. 488, passed 7-17-1997; Ord. 514, passed 2-5-1998; Ord. 528, passed 10-29-1998; Ord. 549, passed 6-3-1999; Ord. 563, passed 11-25-1999; Ord. 672, passed 6-26-2003; Ord. 877, passed 12-3-2013; Ord. 909, passed 8-18-2015)

§ 151.047 BUSINESS PARK ZONE (BP).

(A) *Purpose*. The purpose of the Business Park Zone is to provide areas for the development of office, business, and light industrial uses meeting high standards of design and construction and having close proximity to major transportation corridors and/or other industrial zones.

(B) *Permitted uses*. Within the Business Park Zone, no structure or land shall be used except for one or more of the following uses:

(1) Offices and office buildings;

(2) Research laboratories conducted entirely within an enclosed building; except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(3) Manufacturing, fabrication, processing, and assembly operations conducted entirely within an enclosed building, except those involving a project that fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(4) Warehousing and wholesaling operations conducted entirely within an enclosed building, except those involving a project that

fits within one of the Mandatory EIS Categories under Minn. Rules 4410.4400;

(5) Office warehouse and office-showroom facilities;

(6) Medical or dental clinics;

(7) Agricultural uses, but limited to the growing of field crops;

(8) Utility services;

(9) Public buildings;

(10) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council.

(11) Breweries;

(12) Distilleries; and

(13) Wineries.

(C) *Conditional uses*. Within the Business Park Zone, no structure or land shall be used for any of the following uses except by conditional use permit:

(1) Health and athletic club facilities;

(2) Commercial vehicle rental facilities;

(3) Industrial or technical training schools;

(4) Restaurants, Class I or Class II, contained within a principal structure, oriented toward serving employees, and not exceeding 10% of the gross floor area of the building;

(5) Manufacturing, fabrication, processing, and assembly operations; warehousing and wholesaling operations; and research laboratories, that fit within one of the Mandatory EIS Categories under Minn Rule 4410.4400;

(6) Retail establishments not exceeding 10% of the gross floor area of the building;

(7) Developments containing more than one principal structure per lot;

(8) Hotels;

(9) Heliports;

(10) Communication service towers, subject to the following conditions:

(a) Shall be a monopole structure;

(b) The location of the tower shall comply with the minimum setback requirements of the zone in which it is to be located. Towers located closer to a property line than a distance equal to the height of the tower shall be designed and engineered to collapse within the distance between the tower and the property line and supporting documentation shall be provided to prove this by a professional engineer;

(c) Shall not exceed 175 feet in total height (including the extension of any antenna);

(d) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(e) Shall be protected with corrosive resistant material;

(f) Signage shall not be allowed on the tower other than danger or warning type signs;

(g) Must provide proof from a professional engineer that the equipment is not able to be co-located on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;

(h) Must be built to accommodate antennas being placed at varying heights on the tower;

(i) Existing vegetation on the site shall be preserved to the maximum extent possible;

(j) Shall be surrounded by a security fence 6 feet in height with a lockable gate;

(k) Shall be located and have an exterior finish that minimizes visibility off-site to the greatest extent possible;

(l) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(m) Equipment and buildings shall be screened from view by suitable landscaping, except where a design of non-vegetative screening better reflects and compliments the architectural character of the surrounding neighborhood;

(o) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one-half mile search radius of the proposed tower for any of the following reasons:

1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;

2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;

3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.

(p) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(q) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus;

(r) When towers are to be located in city parks, no towers should be located in designated conservation areas such as forest areas, marsh lands, wildlife preserves, nature center parks, picnic area, near historical structures, scenic open space areas, and areas of intense recreational play for children (play fields, swimming pool, playground equipment, and the like);

(s) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(t) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(11) Structures over 45 feet in height;

(12) Taprooms;

(13) Winery/distillery tasting rooms; and

(14) Other uses similar to those in this division (C), upon a determination by the Board of Adjustment and Appeals may be allowed upon the issuance of a conditional use permit.

(D) *Permitted accessory uses*.

(1) Parking and loading spaces;

(2) Temporary construction buildings;

(3) Decorative landscape features;

(4) Communication tower service apparatus/devices subject to the following conditions:

(a) Shall be co-located on an existing tower or an existing structure;

(b) Must not exceed 175 feet in total height (including the extension of any communication service device(s)/apparatus);

(c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;

(d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;

(e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;

(g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

(h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus.

(j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major play fields used primarily by adults.

(k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.

(5) Other accessory uses customarily appurtenant to a permitted or conditional use, as determined by the Zoning Administrator.

(E) *Design standards*.

(1) *Minimum lot area*: One acre;

(2) *Maximum impervious surface coverage*: 80%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 100 feet;

(b) *Building setbacks*.

1. *Minimum front yard setback*: 50 feet;

2. *Minimum side yard setback*: 20 feet;

3. *Minimum rear yard setback*: 30 feet; and

4. *Minimum side or rear yard setback from residential zone:* 100 feet.

(4) *Dumpsters, trash handing equipment, and the like*. Dumpsters, trash handling equipment, and recycling equipment shall be stored within the principal structure, or within an accessory structure constructed of the same materials as the principal structure;

(5) *Lighting fixtures*. Lighting fixtures shall be of downcast, cut-off type parking, or drive aisle setbacks:

(a) *Minimum front yard setback*: 50 feet;

(b) *Minimum side yard setback*: 20 feet; and

(c) *Minimum rear yard setback*: 10 feet minimum side or rear yard setback from residential zone: 100 feet.

(6) *Maximum height*: 45 feet without a conditional use permit.

(F) *Construction materials*. In the Business Park Zone, only the following materials may be used for the exterior finish of any principal or accessory building: face brick; stone; glass; decorative concrete block; architecturally treated concrete; cast in place or precast concrete; stucco; and materials substantially similar to these as determined by the Board of Adjustment and Appeals. Steel, aluminum, copper, or other high quality, durable metal, and wood may be used, but only as an accent, trim, or frame, and not as siding for a substantial portion of any building facade.

(2013 Code, § 11.47) (Ord. 547, passed 6-10-1999; Ord. 563, passed 11-25-1999; Ord. 877, passed 12-3-2013)

§ 151.048 PLANNED UNIT DEVELOPMENT DISTRICT.

(A) *Purpose*. It is the purpose of the Planned Unit Development Overlay District (PUD) to encourage innovation, variety, and creativity in site planning and architectural design; to promote flexibility in land development and redevelopment; to maximize development compatibility; to encourage the planning of large parcels of land as a unit; to provide for greater efficiency in the use of land, streets, and energy; to preserve and protect environmentally sensitive site features and historically significant features; to preserve open space; and to provide quality living, working, shopping, and recreating environments for residents and visitors. It is not the intent of this section to establish a separate zoning classification.

(B) *Areas covered*.

(1) The Planned Unit Development Overlay District may be applied within any zone.

(2) Any or all contiguous land owned by the applicant shall be included in a planned unit development when necessary to meet the purpose of this District.

(C) *Permitted, conditional, and accessory uses*.

(1) Uses allowed in a single-use planned unit development shall be limited to the permitted, conditional, and accessory uses allowed in the underlying zone. A single-use planned unit development is a development consisting solely of one of the following use categories: residential; commercial; or industrial.

(2) Uses allowed in a mixed-use planned unit development may consist of uses consistent with those uses permitted, conditional, and accessory allowed in the underlying zoning district and/or a similar use zoning district, The city may place more restrictive conditions on the mixture of uses within a planned unit development to ensure preservation of the public health, safety, and welfare; compliance with the intent of this chapter; and that land uses occurring within the planned unit development, and between the planned unit development and the surrounding land uses, do not conflict. A ***MIXED-USE PLANNED UNIT DEVELOPMENT*** is a development consisting of any combination of residential, commercial, or industrial uses.

(D) *Retail centers*.

(1) Shall not be subject to a minimum or maximum project size;

(2) Shall not have a public address system from any part of the facility which is audible from any residential property;

(3) Shall maintain a landscaped buffer 100 feet wide from any residential zone;

(4) Shall submit a lighting plan for the project area to verify that on-site lighting is not spilling over to adjacent properties and is in compliance with the lighting requirements of this code of ordinances;

(5) Shall provide berming and landscaping consistent with the requirements of this code of ordinances and/or as deemed necessary by the City Council to provide screening and/or transition areas between the site and adjoining uses;

(6) All mechanical components, including, but not limited to, rooftop components, on-site shall be screened. Said screening can be accomplished through painting, paneling, or other material as deemed acceptable by the Zoning Administrator;

(7) Trash compactors shall be fully screened from view. Other trash receptacles, including, but not limited to, dumpsters, shall be stored in fully enclosed areas, including the top;

(8) Building materials used on the sides and rear of the building(s) shall be of the same or similar materials and colors as the front to the building(s);

(9) Signage shall be limited to the size and height requirements of this code of ordinances. However, free standing signage along city streets shall be limited to a monument type design and shall be constructed of face brick, stone, decorative block, painted block, or

other similar materials. If multiple retail establishments exist within the retail center, only one free standing business complex sign shall be allowed per street frontage;

(10) Shall provide an internal pedestrian access system;

(11) Outdoor storage or display of goods for sale shall require specific approval by the City Council;

(12) Shall provide access points in locations approved by the City Engineer to ensure proper ingress/egress to the site;

(13) Shall allow lots without public street frontage, if proper cross easements are provided to ensure accessibility;

(14) Uses listed as conditional uses in the underlying zoning district may be allowed within a retail center PUD upon approval by the City Council. Such uses shall be held to standards outlined in § 151.013 (conditional use permit standards for business zones), unless otherwise modified by the City Council. A separate CUP review process shall not be required when these uses are incorporated into the retail center PUD review; and

(15) Staff shall verify that the retail center is in compliance with its requirements prior to the issuance of any certificate of occupancy within the retail center.

(E) *Design standards*.

(1) *Generally*.

(a) Except as otherwise provided in this division (E), applicable underlying zoning district requirements other than use restrictions described in division (C) above, are superseded by the approval of a PUD development plan by the City Council. The PUD development plan establishes the requirements for a planned unit development and shall govern and take precedence over underlying zoning districts provisions except where the PUD development plan is silent as to a specific provision.

(b) In reviewing requests for increases in density or variations from other requirements beyond that allowed in the underlying district, the Council may take into account the following factors:

1. The open space proposed in the PUD exceeds the minimum required by this division (E);

2. Geologic and/or topographic features unduly restrict development opportunities on 30% or more of the gross project area;

3. Environmental features exist on the site and the variations are necessary to preserve natural features. Environmental features may include, but are not limited to, the following defined features:

a. Slopes in excess of 4:1;

b. Tree cover measuring 6 inches in diameter and/or 6 feet in height covering 20% or more of the gross project site; and

c. The existence of wetlands, lakes, marshes, streams, springs, or other natural water bodies.

(2) *Open space*.

(a) A planned unit development, which includes dwellings, shall provide at least 15% of the project area as open space. If the planned unit development is to be developed in phases, the applicant must include the entire site in the plat of the first phase of development and designate public open space.

(b) Open space is a landscaped area or areas available for the common use of and is accessible by all residents or occupants of the buildings within the planned unit development. Open space shall be calculated on a net basis which excludes private yards, private streets from back of curb to back of curb, public rights-of-way, any areas within an easement; or any other non-recreational impervious surface area. Dedicated parkland shall not be used in calculating open space for a development. The applicant shall be required to submit, along with the PUD site plan, an open space plan illustrating the use and/or function of the open space area or areas. The open space plan shall include any proposed improvements and/or design of the open space area.

(c) ***PRIVATE YARDS*** shall be defined as that portion of a lot not occupied by a structure and under the ownership and/or control of the individual property owner or those areas adjacent to the residential units which are typically viewed and/or utilized by the occupants of the residential units as an extension of their dwelling unit.

(d) There shall not be any credit given to the open space requirements.

(3) *Contiguous land*. The proposed planned unit development shall be comprised of at least 10 acres of contiguous land. PUDs of 5 to 10 acres in size shall be allowed if the following criteria are met:

(a) Regional easements cover 30% or more of the project area;

(b) Environmental features exist on the site which will be preserved through the PUD development process; and/or

(c) The subject site is adjacent to an existing PUD and the PUD process will provide additional compatibility between the PUDs.

(4) *Parcels of land under applicant's control*. The parcels of land, which are the subject of the PUD application, shall be under the applicant's control at the time of application. The development plan shall provide for the development of all of the parcel(s) included in the application. In addition, the development plan must include provisions for the preservation of natural amenities.

(5) *Total coverage*. The total coverage of residential buildings shall not exceed 20% of the total residential area in the PUD.

(6) *Municipal sewer and water availability*. All PUDs shall have municipal sewer and water service available.

(7) *Modification prohibited*. No design standards shall be modified in any way, which violates or compromises the fire and safety codes of the city.

(8) *Buildings on platted PUD districts*. More than one building may be placed on one platted lot in a PUD district.

(9) *PUD proposals*. Any PUD plan proposed to be constructed in stages shall include full details relating to staging and the City Council may approve or modify, where necessary, any such proposals.

(10) *Staging*. The staging shall include estimates of the time for beginning and completion of each stage. Such timing may be subsequently modified by the City Council on the showing of good cause by the developer.

(F) *Special provisions for planned unit developments*.

(1) *Criteria for granting a planned unit development application*. The City Council shall base its decision to grant or deny an application for a planned unit development upon the following factors, and shall adopt findings relative to these criteria.

(2) The criteria are as follows:

(a) Whether the proposed development is consistent in all respects with the comprehensive plan and with this section;

(b) Whether the proposed development, including deviations from design standards of the underlying zones, is compatible with surrounding land uses;

(c) Whether the proposed development, including deviations from development standards of the underlying zone, provides adequate open space, circulation, parking, recreation, screening, and landscaping;

(d) Whether the primary function of the PUD is to encourage development which will preserve and enhance the worthwhile, natural terrain characteristics, and not force intense development to utilize all portions of a given site in order to arrive at the maximum density allowed. In evaluating each individual proposal, the recognition of this objective will be a basic consideration in granting approval or denial;

(e) Whether there exists an overall compatibility of land uses and overall appearance and compatibility of individual buildings to other site elements or to surrounding development; however, the architectural style of buildings shall not solely be a basis for denial or approval of a plan; and/or

(f) Whether the proposed PUD plan would afford a greater general public benefit than would be realized under the underlying zoning district and/or general zoning provisions.

(G) *Planned Unit Development Overlay District application process*.

(1) *Generally*. An application for a Planned Unit Development Overlay District shall be submitted to the Zoning Administrator on forms provided by the city. The application shall be accompanied by the following:

(a) A map or plat of the property and the land within 350 feet thereof;

(b) A list of the names and addresses of the owners of all properties located wholly or partially within 350 feet of the property as such appear on the records of the County Recorder prepared by a certified abstract firm;

(c) Evidence of ownership or an interest in the property, applications must include the assent of the property fee owner;

(d) In addition to the fee, when the request is for the addition or deletion of an Overlay District, the Zoning Administrator may

request that the applicant deposit an additional amount up to $1,000 for planning, engineering, administrative, and legal expenses incurred by the city for the review and processing of the application, if the Zoning Administrator anticipates that the application will cause the city to incur such expenses. Any portion of the supplemental deposit which is not used to reimburse the city will be refunded to the applicant;

(e) If the request is inconsistent with the comprehensive plan, the application must be accompanied by an application for an amendment to the comprehensive plan;

(f) A development plan which provides substantial conformance with the concept plan approved by the Planning Commission;

(g) Such other information as may be required by the Zoning Administrator; and

(h) All plans and maps shall be prepared at the same scale unless otherwise approved by the Zoning Administrator.

(2) *Concept plan review*.

(a) A concept plan is designed to provide a general overview of the proposed development. The Planning Commission shall review the concept plan to determine whether the proposal generally fits the desired development patterns of the city.

(b) A concept plan shall include the following:

1. The application and paid fee;

2. A meeting shall be held with the residents within a 350 feet radius of the proposed PUD prior to the city scheduling a concept review. Documentation, outcomes, and the like, of this meeting shall be submitted with the application information;

3. A cover letter describing the project, any anticipated variations, and how the project complies with the city's comprehensive plan;

4. A sketch of the project area, including approximate site size, proposed land uses, and their approximate location within the site; surrounding land uses; existing and proposed public right-of-way; and unique, problematic, or desirable features of the site, such as wetlands or forests;

5. Ownership of the property and identity of developer;

6. A general description of how adverse impacts on other property will be mitigated; and

7. Any other information that the Zoning Administrator determines will be helpful in reviewing the proposal.

(3) *Development plan review*. The submittal information shall include the following:

(a) A survey of the site prepared by a registered surveyor, showing site size, property lines, and legal description;

(b) A map showing existing improvements and land ownership on and within 200 feet of the site, including the following:

1. The location and width of all streets and easements;

2. The location and size of all existing utilities, including sewers, manholes, watermains, hydrants, and culverts;

3. The location and size of all structures;

4. Existing zoning; and

5. School district boundary lines.

(c) A map showing natural conditions on and within 200 feet of the site, including the following:

1. Contour lines at two-foot intervals;

2. Soil types and their locations;

3. Water features and drainage patterns; and

4. Vegetation, including a list of tree species.

(d) A development plan showing the following information:

1. Proposed uses of land, acreage for each use, recreation and open space areas, a tabulation of density or building square footage, impervious surface percentage, and project phasing and development timing;

2. Information on proposed lots, including location, number, square footage, outer dimensions, and dimensions at setbacks;

3. Proposed street information, including right-of-way and pavement widths, names, and layout;

4. Information on structures, including location and dimensions of both existing and proposed structures;

5. Proposed parking, driveway, and loading information, including location and dimensions of all driveways, off-street parking facilities, and loading facilities;

6. Proposed and existing sidewalks and trails, including location and dimensions;

7. Areas proposed to be dedicated to the public, including location, dimensions, and acreage;

8. Open space areas, including location, dimensions, acreage, and detailed information about any amenities; and

9. An information table showing density per acre, open space area requirements;

(e) A utility plan showing the following:

1. Proposed location and size of sanitary sewer, watermains, storm sewers, and the gradient of each;

2. Proposed point of discharge or connection to existing utilities; and

3. Location and dimensions of proposed and existing easements.

(f) A stormwater management plan showing the following:

1. Site grading at two-foot contour intervals;

2. Proposed stormwater management improvements and techniques; and

3. Preliminary stormwater calculations;

(g) A landscape plan prepared by or under the supervision of a landscape architect showing the following:

1. Location, size, number, and spacing of all proposed plantings, including common and botanical names;

2. Planting schedule by species name and size;

3. Any berms, entry monuments, or other landscaping elements; and

4. Lighting and signage information, showing the type, height, and location of all exterior lighting and signs.

(h) A phasing plan showing the time frame for construction of all improvements, including starting and completion dates;

(i) Preliminary architectural drawings illustrating schematic floor plans, building massing, elevations, structure heights, exterior construction materials, and the typical design and dimension of private yards;

(j) A traffic analysis prepared by a professional engineer; and

(k) Any other information that the Zoning Administrator determines will be helpful in reviewing the proposal.

(4) *City Council action*.

(a) An application for a Planned Unit Development Overlay District may be approved, approved with conditions, or disapproved by a majority vote of the City Council.

(b) The city may impose such conditions as part of the approval of a development plan as it deems necessary in order to ensure consistency with the comprehensive plan and this section. The Zoning Administrator shall maintain a record of all approved plans, amendments, and development agreements.

(5) *Amendment*. The Planning Commission may approve minor changes to an approved plan upon such hearing and notice, if any, as it deems appropriate. Minor changes are those changes listed below, when these changes do not significantly alter the original overall design, uses, or intent of the development:

(a) Changes in building location or size, which do not affect more than 10% of the site and/or floor space, not to exceed 10,000 square feet;

(b) Changes in landscaping, streets, parking, driveways, or site improvements which do not affect more than 10% of the site area, not to exceed 10,000 square feet; or

(c) Changes in dwelling units, which do not result in the number of housing units changing by more than 10%.

(2013 Code, § 11.50) (Ord. 480, passed 4-24-1997; Ord. 521, passed 9-3-1998; Ord. 554, passed 7-6- 1999; Ord. 626, passed 5-30-2002)

§ 151.049 MINING OVERLAY ZONE (MN).

(A) *Purpose*. The purpose of the Mining Overlay Zone is to provide an area for mining the city's sand and gravel deposits while recognizing and providing for the long-term use of the land. The Mining Overlay Zone allows for the use of naturally occurring resources but requires that care be taken to leave the land ready for immediate or eventual reuse consistent with the city's comprehensive plan.

(B) *Areas covered*. This section applies only within the Heavy Industry (I-2) Zone, and to land in other zones which is within an existing mine or adjacent to and surrounded on at least 3 sides by an existing mine.

(C) *Permitted uses*. Within the Mining Overlay Zone, no structure or land shall be used except for one or more of the uses permitted in the underlying zone.

(D) *Conditional uses*. Within the Mining Overlay Zone, no structure or land shall be used for the following uses, except by conditional use permit:

(1) Any use allowed by conditional use permit in the underlying zone; or

(2) Mining.

(E) *Permitted accessory uses*. Within the Mining Overlay Zone, the following uses shall be permitted accessory uses:

(1) Any accessory use allowed in the underlying zone; or

(2) Any use accessory to mining, as determined by the Zoning Administrator.

(F) *Design standards*.

(1) *Density as specified in the underlying zone, minimum lot area*: 20 acres; and

(2) Site specifications.

(a) *Minimum setback from any residential zone*: 100 feet;

(b) *Minimum setbacks in existence prior to commencement of mining*: Minimum setback from any residential or business structure which was in existence prior to commencement of mining, unless the written consent of all owners and residents or occupants of said structures is obtained: 500 feet;

(c) *Minimum setback from any business or industry zone*: 30 feet to the boundary of any business or industry zone; and

(d) *Minimum setback from the right-of-way of any existing or platted street*: 30 feet, except that excavation may be conducted within the 30 feet in order to reduce the elevation to conform to the street.

(2013 Code, § 11.52) (Ord. 377, passed 7-7-1994)

§ 151.050 OLD SHAKOPEE BUSINESS OVERLAY ZONE (B-1C).

(A) *Purpose*. The purpose of the Old Shakopee Business Overlay Zone is to provide an area for the continuation of existing commercial development and development of existing lots in the older business areas for uses fronting on or with immediate access to arterial and collector streets, The combination of small lots is encouraged.

(B) *Areas covered*. The Old Shakopee Business Overlay Zone may be applied to property zoned Highway Business (B-1) and developed, surrounded by development, or platted for development as of the effective date of this chapter.

(C) *Permitted uses*. Within the Old Shakopee Business Overlay Zone, no structure or land shall be used except for one or more of the uses permitted in the underlying Highway Business (B-1) Zone.

(D) *Conditional uses*. Within the Old Shakopee Business Overlay Zone, no structure or land shall be used except for one or more of the uses permitted in the underlying Highway Business (B-1) Zone.

(E) *Permitted accessory uses*. Within the Old Shakopee Business Overlay Zone, permitted accessory uses are limited to the accessory uses allowed in the underlying Highway Business (B-1) Zone.

(F) *Design standards*. Within the Old Shakopee Business Overlay Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*.

(a) *Minimum lot area*: 8,000 square feet; and

(b) *Maximum floor area ratio*: .50.

(2) *Maximum impervious surface percentage*: 75%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 60 feet;

(b) *Minimum front yard setback*: 30 feet; and

(c) *Minimum side yard setback*: 10 feet minimum; rear yard setback: 30 feet.

(4) *Maximum height*. 25 feet, without a conditional use permit.

(2013 Code, § 11.58) (Ord. 377, passed 7-7-1994)

§ 151.051 HIGH DENSITY RESIDENTIAL ZONE (R-4).

(A) *Purpose*. The purpose of the High Density Residential Zone is to provide areas for the development of high density residential uses that are in close proximity to collector and arterial roadways or transit. The High Density Residential zoning district allows for the development of multiple-family housing from 14.01 units per acre to 40 units per acre, and provides increased housing choices and affordability in the community. Increased density also allows for the clustering of units near environmentally sensitive areas and the downtown and riverfront area.

(B) *Permitted uses*.

(1) Multiple family dwellings;

(2) Utility services;

(3) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation, or a building to house sanitary lift station controls;

(b) Shall be less than 20 feet in height;

(c) May only be used to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and

(e) Shall comply with all applicable design standards;

(4) Public recreation;

(5) Residential facilities serving six or fewer persons; and

(6) Day care facilities serving 12 or fewer persons.

(C) *Conditional uses.*

(1) Daycare centers serving greater than 13 persons;

(2) Structures greater than 45 feet in height;

(3) Residential facilities serving 7-16 persons; and

(4) Multiple principal structures on one lot.

(D) *Permitted accessory uses.*

(1) Apartment leasing offices;

(2) Open off-street parking spaces not to exceed 2.5 spaces/unit for a development;

(3) Garages;

(4) Fences;

(5) Gardens and other horticultural uses not involving retail sales;

(6) Solar equipment;

(7) Swimming pools;

(8) Tennis courts;

(9) Receive only satellite dish antennas and other antennas;

(10) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:

(a) Shall be co-located on an existing tower or existing structure. Any co-located apparatus/device shall not extend more than 2 feet above the facade, parapet, roof, or other portion of any structure. Such co-located apparatus/device shall be designed and located in such a way that its appearance and surface finish minimizes visibility off-site;

(b) Lights and or flashing equipment shall not be permitted unless required by state or federal agencies;

(c) Signage shall not be allowed on the communication service apparatus/device(s) other than danger or warning type signs;

(d) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;

(e) Applicable provisions of the City Code, including provisions of the State Building Code therein adopted, shall be complied with;

(f) All obsolete or unused antennas and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the antenna and/or accessory facilities shall be responsible for the removal of facilities and restoration of the site;

(g) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication device(s)/ apparatus;

(h) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:

1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and

2. Commercial recreation areas and major playfields used primarily by adults;

(i) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas shall be transferred to the Park Reserve Fund.

(11) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards.* Within the R-4, High Density Residential Zone, no land shall be used and no structure shall be constructed or used, except in conformance with the following requirements:

	R-4	***R-4T (R-4 Lots within 1/4 mile walking distance by sidewalk or trail to an operating transit station)***	***R-4D (R-4 Lots within the area that lies east of the intersection of 3rd Ave W and CSAH 69 and north of 3rd Avenue (both East and West) extended east to Sarazin Street, south of the city boundary, and west of the extension of Sarazin Street northward)***
Minimum lot width	150'	150'	142'
Minimum lot depth	200'	200'	100'
Minimum lot size	1 acre	1 acre	20,000 square feet
Minimum density	14.01 units/acre	14.01 units/acre	14.01 units/acre
Maximum base density	24 units/acre	28 units/acre	36 units/acre
Density bonus for lots within 1/4 mile walking distance by sidewalk or trail to public park or open space greater than 2 acres, that is intended to be used for recreation purposes	2 units/acre	2 units/acre	2 units/acre
Density bonus for developments with at least 50 square feet per unit of indoor community space, indoor or outdoor recreation			

facilities such as swimming pools, tennis courts, outdoor cooking facilities, and similar facilities available for use by occupants. Open space is not counted in this calculation.	2 units/acre	2 units/acre	2 units/acre
Maximum impervious surface	60%	65%	75%
Minimum front yard setback	50'	50'	1/2 building height, or 15', whichever is greater
Minimum rear yard setback	40'	40'	1/2 building height, or 15', whichever is greater
Minimum street side setback	30'	30'	1/2 building height, or 15', whichever is greater
Minimum side yard setback	1/2 building height or 20', whichever is greater	1/2 building height or 20', whichever is greater	1/2 building height, or 15', whichever is greater
Minimum structure setback to arterial roadway	50'	50'	1/2 building height, or 15', whichever is greater
Minimum distance between buildings within a development	25'	25'	20'
Minimum parking setback to arterial roadway	25'	25'	25'
Maximum structure height	45'	45'	45'
Minimum off-street parking spaces	2.25 spaces/unit	2.0 spaces/unit	1.75 spaces/unit
Off-street parking requirement reduction (for sites within 1/4 mile of a transit stop	0.10 spaces/unit	N/A	0.10 spaces/unit

accessible by a sidewalk or trail)			

(Ord. 925, passed 12-15-2015)

SHORELAND OVERLAY ZONE (SH)

§ 151.065 STATUTORY AUTHORIZATION AND POLICY.

(A) *Statutory authorization*. This subchapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103F, as it may be amended from time; state regulations, Minn Rules 6120.2500 through 6120.3900; and the planning and zoning enabling legislation in M.S. Ch. 462, as it may be amended from time to time.

(B) *Policy*. The uncontrolled use of shorelands of the city affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety, and welfare to provide for the wise subdivision, use, and development of shorelands of public waters. The legislature of the state has delegated responsibility to local governments of the state to regulate the subdivision, use, and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. The city hereby recognizes this responsibility.

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997; Ord. 537, passed 2-18-1999)

§ 151.066 GENERAL PROVISIONS AND DEFINITIONS.

(A) *Jurisdiction*. The provisions of this subchapter shall apply to the shorelands of the public water bodies as classified in § 151.068. Pursuant to Minn Rules 6120.2500 through 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this subchapter.

(B) *Compliance*. The use of any shoreland of public waters; the size and shape of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this subchapter and other applicable regulations.

(C) *Enforcement*. The Zoning Official is responsible for the administration and enforcement of this subchapter. Any violation of the provisions of this subchapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this subchapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 151.067.

(D) *Interpretation*. In their interpretation and application, the provisions of this subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(F) *Abrogation and greater restrictions*. It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this subchapter imposes greater restrictions, the provisions of this subchapter shall prevail. All other sections inconsistent with this subchapter are hereby repealed to the extent of the inconsistency only.

(G) *Definitions and statutory interpretation*.

(1) *Statutory interpretation*. For the purpose of this subchapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

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

ACCESSORY STRUCTURE or ***FACILITY***. Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

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

1. Part or all of the feature is located in a shoreland area;

2. The slope rises at least 25 feet above the ordinary high water level of the waterbody;

3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and

4. The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BUILDING LINE. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

CONDITIONAL USE. A land use or development as defined by ordinance that would not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning code exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than 3 feet above ground.

DUPLEX, ***TRIPLEX***, and ***QUAD.*** A dwelling structure on a single lot, having two, three, and 4 units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

DWELLING SITE. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING UNIT. Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

EXTRACTIVE USE. The use of land for surface or sub-surface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

HARDSHIP. The same meaning as that term is defined in M.S. Ch. 462, as it may be amended from time to time.

HEIGHT OF BUILDING. The vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

LOT WIDTH. The shortest distance between lot lines measured at the midpoint of the building line.

NONCONFORMITY. Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded, or authorized.

ORDINARY HIGH WATER LEVEL. 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*** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ***ORDINARY HIGH WATER LEVEL*** is the operating elevation of the normal summer pool.

PLANNED UNIT DEVELOPMENT. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

PLANNING UNIT DEVELOPMENTS, COMMERCIAL. These are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

PLANNED UNIT DEVELOPMENTS, RESIDENTIAL. A use where the nature of residency is not transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as ***RESIDENTIAL PLANNED UNIT DEVELOPMENTS***. To qualify as a ***RESIDENTIAL PLANNED UNIT DEVELOPMENT***, a development must contain at least 5 dwelling units or sites.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, subds. 14 and 15, as it may be amended from time to time.

SEMI-PUBLIC USE. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in § 151.069(H).

SEWER SYSTEM. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary highwater level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of ***SHORELAND***s may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites; or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the State Historical Society. All unplatted cemeteries are automatically considered to be ***SIGNIFICANT HISTORIC SITES***.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this subchapter. Where specific information is not available, ***STEEP SLOPES*** are lands with average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

STRUCTURE. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

SUBDIVISION. Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

TOE OF THE BLUFF. The lower point of a 50 feet segment with an average slope exceeding 18%.

TOP OF THE BLUFF. The higher point of a 50 feet segment with an average slope exceeding 18%.

USES WITH WATER-ORIENTED NEEDS (WATER-ORIENTED USES). A land use that has as an intrinsic element access to, or use of, the water for recreational purposes. Such uses include, but are not necessarily limited to, marinas, resorts, boat or canoe accesses, and fishing docks.

USES WITHOUT WATER-ORIENTED NEEDS (NON WATER-ORIENTED USES).

1. Any land use that does not have as an intrinsic element access to, or use of, the water for recreational purposes. Commercial, industrial, or business park land uses that do not meet the definition of "surface water-oriented commercial use" contained herein are by definition ***NON WATER-ORIENTED USES***.

2. Defined at ***SURFACE WATER-ORIENTED COMMERCIAL USE***, as the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

VARIANCE. The same as that term is defined or described in M.S. Ch. 462, as it may be amended from time to time.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

WETLAND. A surface water feature classified as a wetland in the U.S. Fish and Wildlife Service Circular No. 39

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997; Ord. 586, passed 11-15-2000) Penalty, see § 151.999

§ 151.067 ADMINISTRATION.

(A) *Permit required*.

(1) A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by § 151.069(C). Application for a permit shall be made to the Building Official on the forms provided. The application shall include the necessary information so that the Building Official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 151.069(H), shall be reconstructed or replaced in accordance with the provisions of this subchapter.

(B) *Certificate of zoning compliance*. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in division (A) above. This certificate will specify that the use of land conforms to the requirements of this subchapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this section and shall be punishable as provided in § 151.066(C).

(C) *Variances*.

(1) A variance may only be granted in accordance with M.S. Ch. 462, as it may be amended from time to time. A variance may not circumvent the general purposes and intent of this subchapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment and Appeals and Appeals must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(2) (a) The Board of Adjustment and Appeals shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business.

(b) When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in division (D)(2) below shall also include the Board of Adjustment and Appeals' summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(3) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(D) *Notifications to the Department of Natural Resources*.

(1) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed subdivisions must include copies of the proposed subdivision.

(2) A copy of approved amendments and subdivisions, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the commissioner's designated representative and postmarked within 10 days of final action.

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997) Penalty, see § 151.999

§ 151.068 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS.

(A) *Shoreland classification system.* The public waters of the city have been classified below consistent with the criteria found in Minn. Rules 6120.3300, and the Protected Waters Inventory Map for the county.

(1) *Generally*. The shoreland area for the waterbodies listed in divisions (A)(2) and division (A)(3) below shall be as defined in the term "shoreland" in § 151.066(G)(2) and as shown on the official zoning map.

(2) *Lakes*.

Natural Environment Lakes	***Protected Waters Inventory I.D. No.***
Blue Lake	I.D. No. 70-0088
Dean Lake	I.D. No. 70-0074
Fisher Lake	I.D. No. 70-0087
Rice Lake	I.D. No. 70-0025
Unnamed	I.D. No. 70-0080
Recreational Development Lakes	***Protected Waters Inventory I.D. No.***
O'Dowd Lake	I.D. No. 70-0095

(3) *Rivers and streams.*

Agricultural Rivers	***Legal Description***
Minnesota River	From the border of Scott and LeSueur Counties to the East section line of Section 5, Township 115N, Range 22W**
Transition Rivers	***Legal Description***
Minnesota River	From the west section line of Section 4, Township 115N. Range 22W**
Tributary Streams	***Legal Description***
Eagle Creek	From Basin 245, Section 13, Township 115, Range 22W to Section 13, Township 115, Range 22W**
Unnamed to Minnesota River	From Section 2, Township 115, Range 22W to Section 1, Township 115, Range 22W**
Unnamed Tributary	From Basin 249, Section 23, Township 115, Range 22W to Section 14, Township 115, Range 22W**
Notes: *All protected watercourses in the city shown on the protected waters inventory map for the county, a copy of which is hereby adopted by reference, not given a classification in Items A-E above shall be considered "Tributary" ** All from and to locations are subject to actual municipality boundaries	

(B) *Land use district description.*

(1) *Criteria for designation.* The land use districts in this division (B), and the delineation of a land use district's boundaries on the official zoning map must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

(a) *General considerations and criteria for all land uses.*

1. Preservation of natural areas;
2. Present ownership and development of shoreland areas;
3. Shoreland soil types and their engineering capabilities;
4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values, and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;

10. The land requirements of industry which, by its nature, requires location in shoreland areas; and

11. The necessity to preserve and restore certain areas having significant historical or ecological value.

(b) Factors and criteria for planned unit developments.

1. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

2. Physical and aesthetic impacts of increased density;

3. Suitability of lands for the planned unit development approach;

4. Level of current development in the area; and

5. Amounts and types of ownership of undeveloped lands.

(2) *Land use district descriptions*. The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the official zoning map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minn. Rules 6120.3200, subp. 3. Where a conflict exists between a zoning classification in existence prior to the adoption of this subchapter and the land use described below, the land use designated on the city's zoning map shall govern, so long as it is consistent with the city's comprehensive plan:

(a) *Land use districts for lakes.*

	Recreational Development Lakes	***Natural Environment Lakes***
General Use District - Uses		
Commercial	P	C
Commercial planned unit development**	C	C
Extractive use	C	C
Forest management	P	P
Industrial	C	C***
Mining/metallic minerals and peat	P	P
Public, semi-public	P	C
Parks and historic site	C	C
High-Density Residential - Uses		
Duplex, triplex, quad residential	P	C
Forest management	P	P
Parks and historic sites	C	C
Residential planned unit developments	C	C
Semi-public	C	C
Single residential	P	P
Surface water-oriented commercial	C	C
Residential District - Uses		
Duplex, triplex, quad residential	C	C

Extractive use	C	C
Forest management	P	P
Mining/metallic minerals and peat	P	P
Parks and historic sites	C	C
Semi-public	C	C
Single residential	P	P
Special Protection District - Uses		
Agricultural: cropland and pasture	P	P
Agricultural feedlots	C	C
Extractive use	C	C
Forest management	P	P
Mining/metallic minerals and peat	P	P
Parks and historic sites	C	C
Sensitive resource management	P	P
Single residential	C	C
Water-Oriented Commercial - Uses		
Commercial planned unit development**	C	C
Forest management	P	P
Parks and historic sites	C	C
Public, semi-public	C	C
Surface water-oriented commercial	P	C
Notes: *As accessory to a residential planned unit development ** Limited expansion of a commercial planned unit development involving up to 6 additional dwelling units or sites may be allowed as a permitted use provided the provisions of § 151.072 are satisfied ***Industrial uses are allowed by conditional use permit on natural environment lakes if properly zoned and if the condition in § 151.073 are satisfied		

(b) *Land use districts for rivers and streams.*

	Transition	***Agricultural***	***Tributary***
General Use District - Uses			
Commercial	C	P	C
Commercial planned unit development**	C	C	C
Extractive use	C	C	C
Forest management	P	P	P

Industrial	N	C	C
Mining/metallic minerals and peat	P	P	P
Parks and historic sites	C	C	C
Public, semi-public	C	P	C
Sensitive resource management	P	P	P
Single residential	C	C	C
High Density Residential - Uses			
Duplex, triplex, quad residential	C	C	C
Forest management	P	P	P
Residential planned unit development	C	C	C
Parks and historic sites	C	C	C
Semi-public	C	C	C
Single residential	P	P	P
Surface water-oriented commercial*	C	C	C
Residential District - Uses			
Duplex, triplex, quad residential	C	C	C
Extractive use	C	C	C
Forest management	P	P	P
Mining/metallic minerals and peat	P	P	P
Parks and historic sites	C	C	P
Semi-public	C	C	P
Single residential	P	P	P
Special Protection District - Uses			
Agricultural: cropland and pasture	P	P	P
Agricultural feedlots	C	C	C
Extractive use	C	C	C
Forest management	P	P	P
Mining/metallic minerals and peat	P	P	P
Parks and historic sites	C	C	C
Sensitive resource management	P	P	P
Single residential	C	C	C
Semi-public	C	C	P

Water-Oriented Commercial - Uses			
Commercial planned unit development*	C	C	C
Forest management	P	P	P
Parks and historic sites	C	C	C
Public, semi-public	P	P	P
Surface water-oriented commercial	C	C	C

Notes:
*As accessory to a residential planned unit development
** Limited expansion of a commercial planned unit development involving up to 6 additional dwelling units or sites may be allowed as a permitted use provided the provisions of § 151.072 are satisfied

(3) *Use and upgrading of inconsistent land use district.*

(a) The land use districts adopted in §§ 151.030 through 151.046, as they apply to shoreland areas, and their delineated boundaries on the official zoning map, are not consistent with the land use district designation criteria specified in division (B)(2) above. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official zoning map or to modify the boundary of an existing land use district shown on the official zoning map.

(b) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply.

1. *For lakes*. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this subchapter on said lake must be revised to make them substantially compatible with the framework in divisions (B)(1) and (B)(2) above.

2. *For rivers and streams*. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this subchapter must be revised to make them substantially compatible with the framework in division (B)(1) above. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2-1/2 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

(c) When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the Board of Adjustment and Appeals. When a question arises as to whether a land use district's boundaries are properly delineated on the official zoning map, this decision shall be made by the City Council.

(d) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the Zoning Administrator to provide such additional information for this waterbody as is necessary to satisfy (3)(a) and (b) above.

(e) The City Council must make detailed findings of fact when taking final action that the revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of division (B) above.

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997; Ord. 537, passed 2-18-1999)

§ 151.069 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

(A) *Lot area and width standards*. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and

quad residential lots created after the date of enactment of this subchapter for the lake and river/stream Classifications are the following:

(1) *Unsewered lakes.*

(a) *Natural environment.*

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

(b) *Recreational development.*

Riparian Lots		***Non-Riparian Lots***		
	Area	***Width***	***Area***	***Width***
Duplex	80,000	225	80,000	265
Quad	160,000	375	160,000	490
Single	40,000	150	40,000	150
Triplex	120,000	300	120,000	375

(2) *Sewered lakes.*

(a) *Natural environment.*

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

(b) *Recreational development.*

Riparian Lots		***Non-Riparian Lots***		

	Area	*Width*	*Area*	*Width*
Duplex	35,000	135	26,000	135
Quad	65,000	255	49,000	245
Single	20,000	75	15,000	75
Triplex	50,000	195	38,000	190

(3) *River/stream lot width standards*.

(a) There is no minimum lot size requirement for rivers and streams.

(b) The lot width standards for single, duplex, triplex, and quad residential developments for the 6 river/stream classifications are as follows.

	Transition	*Agricultural*	*Urban and Tributary*	
			No Sewer	*Sewer*
Duplex	375	225	150	115
Quad	625	375	250	190
Single	250	150	100	75
Triplex	500	300	200	150

(4) *Additional special provisions*.

(a) Residential subdivisions with dwelling unit densities exceeding those in the tables in divisions (A)(2) and (A)(3) above can only be allowed if designed and approved as residential planned unit developments under § 151.072. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in division (A)(2) above can only be used if publicly-owned sewer system service is available to the property.

(b) Subdivisions of duplexes, triplexes, and quads on natural environment lakes must also meet the following standards:

1. Each building must be setback at least 200 feet from the ordinary high water level;

2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;

3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and

4. No more than 25% of a lake's shoreline can be in duplex, triplex, or quad developments.

(c) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;

2. If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond 6 consistent with the following table;

Controlled Access Lot Frontage Requirements

Ratio of Lake Size to Shore Length in (Acres/Miles)	*Required Increase to Shore Length in Frontage (Percent)*
Less than 100	25
100-20	20
201-300	15
301-400	10
Greater than 40	5

3. Controlled access lots must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and

4. a. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners.

b. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations.

c. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(B) *Placement, design, and height of structures.*

(1) *Placement of structures on lots.*

(a) 1. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.

2. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

(b) Structures shall be located as follows.

1. *Structure and on-site sewage system setbacks (in feet) from ordinary high water level.**

Setbacks			
Classes of Public Waters	*Unsewered*	*Structures Sewers*	*Sewage Treatment System*
Lakes			
Natural environment	150	150	150
Recreational development	150	75	75
Rivers			
Agriculture and tributary	100	50	50
Transition	150	150	100

Notes:
*One water-oriented accessory structure designed in accordance with division (C)(2) below may be setback a minimum distance of 10 feet from the ordinary high water level.

2. *Additional structure setbacks*. The following additional structure setbacks apply, regardless of the classification of the waterbody.

Setback From	***Setback (In Feet)***
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads or streets not classified	20
Top of bluff	30
Unplatted cemetery	50

(c) Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) Uses without water-oriented needs must be located on lots or parcels without public water frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) *Design criteria for structures*.

(a) *High water elevations*. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

1. For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher;

2. For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all 3 approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical, and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(b) *Water-oriented accessory structures*. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in division (B)(1) above if this water-oriented accessory structure complies with the following provisions:

1. The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point;

2. The setback of the structure or facility from the ordinary high water level must be at least 10 feet;

3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer, leaf-on conditions;

4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(c) *Stairways, lifts, and landings*. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

3. Canopies or roofs are not allowed on stairways, lifts, or landings;

4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground; provided, they are designed and built in a manner that ensures control of soil erosion;

5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas; provided, that the dimensional and performance standards of division (B)(2)(c)1. through (B)(2)(c)5. above are complied with in addition to the requirements of Minn. Rules Ch. 1340.

(d) *Significant historic sites*. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(e) *Steep slopes*. The Building Official and/or the City Engineer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(3) *Height of structures*. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 35 feet in height.

(C) *Shoreland alterations*. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(1) *Vegetation alterations*.

(a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by division (D) below are exempt from the vegetation alteration standards that follow.

(b) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in division (F) below is allowed subject to the following standards.

1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures of facilities; provided, that:

a. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

b. Along rivers, existing shading of water surfaces is preserved; and

c. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(2) *Topographic alterations/grading and filling.*

(a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit; however, the grading and filling standards in this subchapter must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(b) Public roads and parking areas are regulated by division (D) below.

(c) Notwithstanding divisions (C)(2)(a) and (C)(2)(b) above, a grading and filling permit will be required for:

1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and

2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(d) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:

1. Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland* (* This evaluation must also include a determination of whether the wetland alteration being proposed required permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the State Department of Natural Resources, or the U.S. Army Corps of Engineers. The applicant will be so advised):

a. Sediment and pollutant trapping and retention;

b. Storage of surface runoff to prevent or reduce flood damage;

c. Fish and wildlife habitat;

d. Recreational use;

e. Shoreline or bank stabilization; and

f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the U.S. Soil Conservation Service;

6. Fill or excavated material must not be placed in a manner that creates an unstable slope;

7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;

8. Fill or excavated material must not be placed in bluff impact zones;

9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.005, as it may be amended from time to time;

10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed 3:1 feet horizontal to vertical, the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 feet.

(e) Excavations where the intended purpose is connection to the public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(D) *Placement and design of roads, driveways, and parking areas.*

(1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonably and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(3) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones; provided, the vegetative screening and erosion control conditions of this division (D)(3) are met. For private facilities, the grading and filling provisions of division (C)(2) above must be met.

(E) *Stormwater management.* The following general and specific standards shall apply.

(1) *General standards.*

(a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and human-made materials and facilities.

(2) *Specific standards.*

(a) Impervious surface coverage of lots must not exceed 25% of the lot area.

(b) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(c) New constructed stormwater outfalls to public waters must provide for filtering or settling or suspended solids and skimming of surface debris before discharge.

(F) *Standards for commercial, industrial, public, and semi-public uses.*

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

(a) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this subchapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff;

2. Signs may be placed, when necessary, within the Shore Impact Zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

3. Other outside lighting may be located within the Shore Impact Zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(2) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal ordinary high water level setback, or be substantially screened from view from the water by vegetation or topography assuming summer, leaf-on conditions.

(3) (a) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the U.S. Soil Conservation Service, as provided by a qualified individual or agency. The Shore Impact Zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(b) Animal feedlots must meet the following standards:

1. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and

2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(4) Extractive and mining uses shall not be allowed in the shoreland district.

(G) *Conditional uses*. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas.

(1) *Evaluation criteria*. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

(a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(b) The visibility of structures and other facilities as viewed from public waters is limited;

(c) The site is adequate for water supply and on-site and sewage treatment; and

(d) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(2) *Conditions attached to conditional use permits*.

(a) The Board of Adjustment and Appeals, upon consideration of the criteria listed above and the purposes of this subchapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this subchapter.

(b) Such conditions may include, but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;

2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft, launching and docking areas, and vehicle parking areas.

(H) *Water supply and sewage treatment.*

(1) *Water supply*. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the State Department of Health and the State Pollution Control Agency.

(2) *Sewage treatment*. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows.

(a) Publicly-owned sewer systems must be used where available.

(b) All private sewage treatment systems must meet or exceed the State Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Ch. 7080", a copy of which is hereby adopted by reference and declared to be a part of this subchapter.

(c) On-site sewage treatment systems must be setback from the ordinary high water level in accordance with the setbacks contained in division (B)(1) above.

(d) 1. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in divisions (H)(2)(d)2.a. through (H)(2)(d)2.d below. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

2. Evaluation criteria is as follows:

a. Depth to the highest known or calculated ground water table or bedrock;

b. Soil conditions, properties, and permeability;

c. Slope; and

d. The existence of lowlands, local surface depressions, and rock outcrops.

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with § 151.070(C).

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997; Ord. 537, passed 2-18-1999; Ord. 822, passed 8-6-2009)

§ 151.070 NONCONFORMITIES.

All legally established nonconformities as of the date of this subchapter may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas.

(A) *Construction on nonconforming lots of record.*

(1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 151.069(A) may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this subchapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment and Appeals shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(3) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 151.069(A) the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of § 151.069(A)as much as possible.

(B) *Additions/expansions to nonconforming structures.*

(1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of § 151.069. Any deviation from these requirements must be authorized by a variance pursuant to §

151.067(C).

(2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

(a) The structure existed on the date the structure setbacks were established;

(b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(c) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(d) The deck is constructed primarily of wood, and is not roofed or screened.

(C) *Nonconforming sewage treatment systems*.

(1) A sewage treatment system not meeting the requirements of § 151.069(H) must be upgraded, at a minimum, at anytime a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(2) The governing body of the city has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed 2 years. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. §§ 103F.201 et seq., as they may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the State Pollution Control Agency's Ch. 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997)

§ 151.071 SUBDIVISION PROVISIONS.

(A) *Land suitability*. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding; existence of wetlands, soil, and rock formations with severe limitations for development; severe erosion potential; steep topography; inadequate water supply or sewage treatment capabilities; near-shore aquatic conditions unsuitable for water-based recreation; important fish and wildlife habitat; presence of significant historic sites; or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(B) *Consistency with other controls*. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly-owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with § 151.069(B) and (H) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of § 151.069(A), including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of 2 standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(C) *Information requirements*. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

(1) Topographic contours at ten-foot intervals or less from U.S. Geological Survey maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.021, as it may be amended from time to time, to be shown on plats, obtained from U.S. Geological Survey quadrangle topographic maps or more accurate sources;

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

(5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

(6) A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications*. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(E) *Platting*. All subdivisions that create 5 or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(F) *Controlled access or recreational; lots*. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in§ 151.069(D).

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997)

§ 151.072 PLANNED UNIT DEVELOPMENTS (PUDS).

(A) *Types of PUDs permissible*. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in § 151.068(B) and the official zoning map.

(B) *Processing of PUDs*. Planned unit developments must be processed consistent with this chapter, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this subchapter was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in division (E) below. Approval cannot occur until the environmental review process (EAW/EIS) is complete, where those processes are required by state law and regulation.

(C) *Application for a PUD*. The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

(1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing, and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two;

(2) A property owner's association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of division (F) below;

(3) Deed restrictions, covenants, permanent easements, or other instruments that:

(a) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in division (F) below.

(4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied; and

(5) Those additional documents as requested by the Zoning Official that are necessary to explain how the PUD will be designed and will function.

(D) *Site "suitable area" evaluation*. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in division

(E) below.

(1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward.

Shoreland Tier Dimensions		
	Unsewered	***Sewered***
All river classes	300 feet	300 feet
Natural environment lakes	400 feet	320 feet
Recreational development lakes	267 feet	267 feet

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

(E) *Residential and commercial PUD density evaluation*. The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) *Residential PUD "base" density evaluation*. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in division (F) below.

(2) *Commercial PUD "base" density evaluation*.

(a) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

(b) Select the appropriate floor area ratio from the following table.

Commercial Planned Unit Development Floor Area Ratios * ***Public Waters Classes***			
****Average Unit Floor Area (Square Feet)***	***Agricultural And Tributary River Segments***	***Recreational Development Lakes and Transition River Segments River Segments***	***Natural Environment***
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034

1,400	.142	.072	.036
1,500	.150	.075	.038

Note:
* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet

(c) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(d) Divide the total floor area by tier computed in division (E)(2)(c) above by the average inside living area size determined in division (E)(2)(a) above. This yields a base number of dwelling units and sites for each tier.

(e) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density, and suitability analyses herein and the design criteria in division (F) below.

(3) *Density increase multipliers*.

(a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in § 151.069 are met or exceeded and the design criteria in division (F) below are satisfied. The allowable density increases in division (E)(3)(b) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

(b) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments.

Density Evaluation Tiers	***Maximum Density Increase Within Each Tier (Percent)***
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria*.

(1) *Maintenance and administration requirements*.

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

(b) *Open space preservation.*

1. Deed restrictions, covenants, permanent easements, public dedication, and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space.

2. The instruments must include all of the following protections:

a. Commercial uses prohibited (for residential PUDs);

b. Vegetation and topographic alterations other than routine maintenance prohibited;

c. Construction of additional buildings or storage of vehicles and other materials prohibited; and

d. Uncontrolled beaching of watercraft prohibited.

(c) *Development organization and functioning*. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owner's association with the following features:

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

3. Assessments must be adjustable to accommodate changing conditions; and

4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(2) *Open space requirements*. Planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50% of the total project area must be preserved as open space;

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

(d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

(e) Open space may include sub-surface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

(f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;

(g) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

(h) The Shore Impact Zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50% of the Shore Impact Zone area of existing developments, or at least 70% of the Shore Impact Zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the Shore Impact Zone must be preserved in its natural state.

(3) *Erosion control and stormwater management*. Erosion control and stormwater management plans must be developed and the PUD must:

(a) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area, except that for commercial PUDs 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with § 151.069(C).

(4) *Centralization and design of facilities*. Centralization and design of facilities and structures must be done according to the following standards:

(a) Planned unit developments must be connected to publicly-owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the State Department of Health and § 151.069(B) and (H). On-site sewage treatment systems must be located on the most

suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

(b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with division (E)(3) above or developments with density increases;

(c) Shore recreation facilities including, but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

(d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

(e) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in § 151.069(B) and are centralized.

(G) *Conversions*. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met.

(1) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) Remedial measures to correct erosion-sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) (a) Existing dwelling unit or dwelling site densities that exceed standards in division (E) above may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future.

(b) Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997)

§ 151.073 INDUSTRIAL USES ON NATURAL ENVIRONMENT LAKES.

(A) *Conditional use permit required.* Industrial uses are allowed on natural environment lakes by conditional use permit if such uses are allowed by this chapter in the underlying zoning district, and if the conditions attached to the development of the site are met.

(B) *Impervious surface coverage*.

(1) Industrial uses on natural environment lakes shall be allowed 50% maximum lot coverage with impervious surfaces.

(2) This can be increased to 75% maximum lot coverage if the city has an adopted stormwater management plan which adequately addresses stormwater runoff and surface water quality issues in the city, and a specific site plan is reviewed and approved by the city for the Industrial use in question which follows the policies and procedures in the stormwater management plan and which utilizes accepted engineering practices to divert, detain, and/or treat runoff before entering the natural environment lake.

(C) *Building height*. The maximum allowable building height for industrial uses on natural environment lakes is 35 feet.

(D) *Substantial screening*. ***SUBSTANTIALLY SCREENED FROM VIEW OF WATER*** as required in § 151.069(D) when applied to industrial uses on natural environment lakes which are considered "uses without water-oriented needs", shall mean screening of at least 75% opacity in summer, leaf-on conditions, by either vegetation or topography, as determined by the Zoning Administrator.

(E) *Trails in Shore Impact Zone*. Trails may be allowed in the Shore Impact Zone as part of a conditional use permit.

(2013 Code, § 11.54) (Ord. 500, passed 11-13-1997; Ord. 537, passed 2-18-1999)

FLOODPLAIN OVERLAY ZONE (FP)

§ 151.085 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND THE LIKE.

(A) *Statutory authorization*. The legislature of the state has, in M.S. Chs. 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the city does ordain as follows.

(B) *Findings of fact.*

(1) *Generally*. The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) *Methods used to analyze flood hazards*. This subchapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the State Department of Natural Resources.

(C) *Statement of purpose.* It is the purpose of this subchapter to promote the public health, safety, and general welfare and to minimize those losses described in division (B)(1) above by provisions contained herein.

(D) *Amendments*.

(1) (a) The floodplain designation on the official zoning map shall 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 regional flood and is contiguous to lands outside the floodplain.

(b) Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(2) (a) All amendments to this subchapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption.

(b) The Commissioner of Natural Resources must be given 10 days' written notice of all hearings to consider an amendment to this subchapter and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

§ 151.086 GENERAL PROVISIONS.

(A) *Lands to which subchapter applies*. This subchapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.

(B) *Establishment of official zoning map*. The official zoning map together with all materials attached thereto is hereby adopted

by reference and declared to be a part of this subchapter. The attached material shall include the flood insurance study for the city prepared by the Federal Insurance Administration, dated September 29, 1978 therein, the letter of map revision, issued by the Federal Emergency Management and dated October 23, 1997, and all of the attachments thereto relating to revisions to the flood boundary and floodway map, flood insurance rate map, and floodway data table. The official zoning map shall be on file in the office of the City Clerk and the Community Development Department.

(C) *Regulatory flood protection elevation*. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(D) *Interpretation*.

(1) In their interpretation and application, the provisions of this subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(2) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administration, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional 100-year flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

(E) *Abrogation and greater restrictions*. It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this subchapter imposes greater restrictions, the provisions of this subchapter shall prevail. All other subchapters inconsistent with this subchapter are hereby repealed to the extent of inconsistency only.

(F) *Warning and disclaimer of liability*. This subchapter 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 subchapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made hereunder.

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

ACCESSORY USE OR STRUCTURES. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all 4 sides, regardless of the depth of excavation below ground level.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(a) Certain conditions as detailed in the zoning ordinance exist; and

(b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the floodplain outside of the floodway. ***FLOOD FRINGE*** is synonymous with the term ***FLOODWAY FRINGE*** used in the flood insurance study for the city.

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

FLOOD-PROOFING. 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. 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.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or human-made obstruction. In an urban area, the segment of a stream or river between 2 consecutive bridge crossings would most typically constitute a ***REACH***.

REGIONAL FLOOD. 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. ***REGIONAL FLOOD*** is synonymous with the term ***BASE FLOOD*** used in the flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than one foot above the elevation, of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers, vehicles not meeting the exemption criteria specified in § 151.092(C) and other similar items.

VARIANCE. A modification of a specific permitted development standard required in an official control including this subchapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty, or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000; Ord. 568, passed 5-25-2000)

§ 151.087 ESTABLISHMENT OF ZONING DISTRICT.

(A) *Districts*.

(1) *Floodway District*. The Floodway District shall include those areas designated as floodway on the flood boundary and floodway map adopted in § 151.086(B).

(2) *Flood Fringe District*. The Flood Fringe District shall include those areas designated as floodway fringe on the flood boundary and floodway map adopted in § 151.086(B).

(B) *Compliance*.

(1) No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this subchapter and other applicable regulations which apply to uses within the jurisdiction of this subchapter. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in §§ 151.088 and 151.089 that follow, respectively, shall be prohibited.

(2) In addition, a caution is provided herein that:

(a) New manufactured home, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this subchapter and specifically § 151.092; and

(b) Modifications, additions, structural alterations, or repair after damage to existing nonconforming structures and nonconforming uses of structures of land are regulated by the general provisions of this subchapter and specifically § 151.094.

(3) As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this subchapter and specifically as stated in § 151.093.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

§ 151.088 FLOODWAY DISTRICT.

(A) *Permitted uses*.

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;

(2) Industrial-commercial loading areas, parking areas, and airport landing strips;

(3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single- or multiple-purpose recreational trails; and

(4) Residential lawns, gardens, parking areas, and play areas.

(B) *Standards for floodway permitted uses*.

(1) The use shall have a low flood damage potential.

(2) The use shall be permissible in the underlying zoning district if one exists.

(3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

(C) *Conditional uses*.

(1) Structures accessory to the uses listed in division (A) above and the uses listed in divisions (C)(2) through (C)(8) below;

(2) Extraction and storage of sand, gravel, and other materials;

(3) Marinas, boat rentals, docks, piers, wharves, and water-control structures;

(4) Railroads, streets, bridges, utility transmission lines, and pipelines;

(5) Storage yards for equipment, machinery, or materials;

(6) Placement of fill;

(7) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 151.092(C); and

(8) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(D) *Standards for floodway conditional uses*.

(1) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(2) All floodway conditional uses shall be subject to the procedures and standards contained in § 151.093(D).

(3) The conditional uses shall be permissible in the underlying zoning district if one exists.

(4) (a) Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes and erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with division (D)(4)(b) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood, but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.

(5) (a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) 1. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage.

2. All flood-proofed accessory structures must meet the following additional standards, as appropriate:

a. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

b. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood-proofed.

(6) (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(7) Structural works for flood control that will change the course, current or cross-section of protected wetlands or public waters shall be subject to the provisions of M.S. Ch. 103G, as it may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

(8) A levee, dike, or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

§ 151.089 FLOOD FRINGE DISTRICT (FF).

(A) *Permitted uses*. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe permitted uses listed in division (B) below and the standards for all flood fringe uses listed in division (E) below.

(B) *Standards for flood fringe permitted uses*.

(1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or

above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood-proofed in accordance with § 151.088(D)(5).

(3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with division (B)(1) above.

(4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(5) The provisions of division (E) below shall apply.

(C) *Conditional uses*. Any structure that is not elevated on fill or flood-proofed in accordance with divisions (B)(1) and (B)(2) above or any use of land that does not comply with the standards in divisions (B)(3) and (B)(4) above, shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in divisions (D) and (E) below and § 151.093(D).

(D) *Standards for flood fringe conditional uses*.

(1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, and the like, or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

(a) If the enclosed area is above-grade on at least one side of the structure;

(b) It is designed to internally flood and is constructed with flood resistant materials; and

(c) It is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards.

1. *Design and certification*. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing, and air conditioning equipments and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

2. *Specific standards for above-grade, enclosed areas*. Above-grade, fully-enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

a. The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings, or devices; provided, that they permit the automatic entry and exit of flood waters; and

b. The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 Classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(2) Basements, as defined by § 151.086(G), shall be subject to the following.

(a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(b) Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood-proofed in accordance with division (D)(3) below.

(3) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation, shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code and this shall require making the structure water- tight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

(4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand, and gravel operations, landfills, roads dredge spoil disposal, or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state-approved shoreland management ordinance. In the absence of a state-approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(5) (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(6) The provisions of division (E) below shall also apply.

(E) *Standards for all flood fringe uses*.

(1) *Generally*. All new principal structures must have vehicular access at or above an elevation not more than 2 feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for time of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(2) *Commercial uses*. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation; however, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than 2 feet or be subject to flood velocities greater than 4 feet per second upon occurrence of the regional flood.

(3) *Manufacturing and industrial uses*. Measures shall be taken to minimize interference with normal plat operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (E)(2) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

(4) *Slope protection*. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(5) *Floodplain developments*. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.

(6) *Standards for ravel trailers*. Standards for travel trailers and travel vehicles are contained in § 151.092(C).

(7) *Securing manufactured homes*. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000; Ord. 568, passed 5-25-2000) Penalty, see § 151.999

§ 151.090 SUBDIVISIONS.

(A) *Review criteria*. No land shall be subdivided which is unsuitable for the 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 treatment facilities that comply with the provisions of this subchapter and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood

protection elevation, and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(B) *Removal of special flood hazard area designation*. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

§ 151.091 PUBLIC UTILITIES, RAILROAD, 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 shall be flood-proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

(B) *Public transportation facilities*. Railroad tracks, roads, and bridges to be located within the floodplain shall comply with §§ 151.088 and 151.090. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation 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 sewage treatment and water supply 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 shall 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 shall be determined to be in compliance with this subchapter.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

§ 151.092 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

(A) New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by § 151.090.

(B) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with § 151.089. If vehicular road access for pre- existing manufactured home parks is not provided in accordance with § 151.089, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(C) Travel trailers and travel vehicles that do not meet the exemption criteria specified in division (C)(1) below shall be subject to the provisions of this subchapter and as specifically spelled out in divisions (C)(3) and (C)(4) below.

(1) *Exemption*. Travel trailers and travel vehicles are exempt from the provisions of this subchapter if they are placed in any of the areas listed in division (C)(2) below and further they meet the following criteria:

(a) Have current licenses required for highway use;

(b) Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it; and

(c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(2) *Areas exempted for placement of travel/recreational vehicles.*

(a) Individual lots or parcels of record;

(b) Existing commercial recreational vehicle parks or campgrounds; and

(c) Existing condominium type associations.

(3) *Travel trailers and travel vehicles; exemptions*. Travel trailers and travel vehicles exempted in division (C)(1) above lose this exemption when development occurs on the parcel exceeding $500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or a storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in §§ 151.088 and 151.089.

(4) *New commercial travel trailers*. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding 5 units or dwelling sites shall be subject to the following:

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fit above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with § 151.089(E)(1). Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of § 151.088.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (C)(4)(a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 151.093(D). The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 151.091(C).

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000)

§ 151.093 ADMINISTRATION.

(A) *Zoning Administrator*. A Zoning Administrator or other official designated by the governing body shall administer and enforce this subchapter. If the Zoning Administrator finds a violation of the provisions of this subchapter, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 151.999.

(B) *Permit requirements*.

(1) *Permit required*. A permit issued by the Zoning Administrator in conformity with the provisions of this subchapter shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof, prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(2) *Application for permit*. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable; plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(3) *State and federal permits*. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(4) *Certificate of zoning compliance for a new, altered, or nonconforming use*. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator state that the use of the building or land conforms to the requirements of this subchapter.

(5) *Construction and use to be provided on applications, plans, and the like*. Permits, conditional use permits, or certificates

of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any user, arrangement, or construction at variance with that authorized shall be deemed a violation of this subchapter, and punishable as provided by § 151.999.

(6) *Certification*. The applicant shall be 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 subchapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

(7) *Record of first floor elevation*. The Zoning Administrator shall 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 shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.

(C) *Board of Adjustment*.

(1) *Rules*. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by state law.

(2) *Administrative review*. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this subchapter.

(3) *Variances*. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this subchapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties, or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(4) *Hearings*. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least 10 days' notice of the hearing.

(5) *Decisions*. The Board shall arrive at a decision on such appeal or variance within 120 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this subchapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board may prescribe appropriate conditions and safeguards such as those specified in division (D)(6) below which are in conformity with the purposes of this subchapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this subchapter punishable under § 151.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.

(6) *Appeals*. Appeals from any decision of the Board may be made, and as specified in this community's official controls and also state statutes.

(7) *Flood insurance notice and record-keeping*.

(a) The Zoning Administrator shall 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 100-year or regional flood level increases risks to life and property.

(b) Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(D) *Conditional uses*. The City Board of Adjustment and Appeals shall hear and decide applications for conditional uses permissible under this subchapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Board of Adjustment and Appeals for consideration.

(1) *Hearings*. Upon filing with the Board of Adjustment and Appeals an application for a conditional use permit, the Board of Adjustment and Appeals shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commission will receive at least 10 days' notice of the hearing.

(2) *Decisions*. The Board of Adjustment and Appeals shall arrive at a decision on a conditional use permit within 120 days. In granting a conditional use permit, the Board of Adjustment and Appeals shall prescribe appropriate conditions and safeguards, in addition to those specified in division (D)(6) below, which are in conformity with the purposes of this subchapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this subchapter punishable under § 151.999. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten

days of such action.

(3) *Procedures followed by the Board of Adjustment and Appeals*.

(a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Board of Adjustment and Appeals for determining the suitability of the particular site for the proposed use:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel; and

2. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

(b) Transmit one copy of the information described in division (D)(3)(a) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters; and

(c) Based upon the technical evaluation of the designated engineer or expert, the Board of Adjustment and Appeals shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(4) *Factors upon which the decision of the Board of Adjustment and Appeals shall be based*. In passing on conditional use applications, the Board of Adjustment and Appeals shall consider all relevant factors specified in other sections of this subchapter:

(a) The 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 or they may block bridges, culverts, or other hydraulic structures;

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(e) The importance of the services provided by the proposed facility to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of alternative locations not subject to flooding for the proposed use;

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(l) Such other factors which are relevant to the purposes of this subchapter.

(5) *Time for acting on application*. The Board of Adjustment and Appeals shall act on an application in the manner described above within 120 days from receiving the application, except where additional information is required pursuant to division (D)(4) above. The Board of Adjustment and Appeals shall render a written decision within 60 days from the receipt of such additional information.

(6) *Conditions attached to conditional use permits.*

(a) Upon consideration of the factors listed above and the purpose of this subchapter, the Board of Adjustment and Appeals shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this subchapter.

(b) Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities;

2. Limitations on period of use, occupancy, and operation;

3. Imposition of operational controls, sureties, and deed restrictions;

4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and

5. Flood-proofing measures, in accordance with the State Building Code and this subchapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the regulatory flood protection elevation and associates flood factors for the particular area.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000; Ord. 568, passed 5-25-2000) Penalty, see § 151.999

§ 151.094 NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this subchapter but which is not in conformity with the provisions of this subchapter may be continued subject to the following conditions.

(A) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

(B) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in division (C) below.

(C) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this subchapter are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of §§ 151.088 and 151.089 for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.

(D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this subchapter. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

(E) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this subchapter. The applicable provisions for establishing new uses or new structures in §§ 151.088 and 151.090 will apply depending upon whether the use or structure is in the floodway or flood fringe, respectively.

(2013 Code, § 11.56) (Ord. 567, passed 3-16-2000) Penalty, see § 151.999

PERFORMANCE STANDARDS

§ 151.105 PURPOSE.

(A) The guiding of land development into a compatible relationship of uses depends upon the maintenance of certain standards. The purpose of this subchapter is to establish limitations on certain activities with a high potential for pollution or nuisance.

(B) The performance standards shall apply in all zones, unless specifically stated to the contrary.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.106 EXTERIOR STORAGE.

(A) In all zones, exterior storage is prohibited except as regulated by conditional use permit, planned unit development, or as specifically provided in the zone regulations.

(B) Notwithstanding the above, exterior storage of the following items is a permitted accessory use in residential zones:

(1) Laundry drying;

(2) Recreational equipment;

(3) Construction and landscaping materials and equipment currently being used on the premises;

(4) Agricultural equipment and materials if these are used or intended for use on the premises; and

(5) Off-street parking of personal vehicles.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.107 REFUSE.

All refuse shall be stored and disposed of in accordance with Ch. 51.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.108 CONSTRUCTION MATERIAL.

(A) *Special minimum requirements and performance standards for all commercial and industrial uses.*

(1) *Building design and materials.*

(a) Building materials shall be attractive in appearance, have a durable finish, and be of an architectural character and quality that is compatible and harmonious with adjacent structures. All buildings shall be of high architectural quality so as to maintain and enhance the property values of neighboring properties, and not adversely impact the community's public health, safety, and general welfare.

(b) All new building facades and refaced facades of existing buildings, shall include a minimum of 3 of the following elements:

1. Accent materials:

2. A front entry that, in addition to doors, shall have an area of accent materials a minimum of 150 square feet around the door entrance for single occupancy buildings and a minimum of 300 square feet total for the front of multi-tenant buildings (this area shall be counted as one element);

3. Twenty-five percent window coverage on each front that faces a street;

4. Contrasting, yet complementary material colors;

5. A combination of horizontal and vertical design features;

6. Varying wall depths and shapes;

7. Varying roof line, design, or materials;

8. Decorative lighting design;

9. Art or sculptural elements; or

10. Other unique architectural features in the overall architectural concept.

(2) *Accent materials and visual relief*. Accent materials shall be wrapped around walls visible from public view. Painting of materials or walls shall not be substituted for visual relief, accenting, or a required element. No wall shall exceed 100 feet in length without visual relief. ***VISUAL RELIEF*** may be defined as the incorporation of design features such as windows, horizontal and vertical patterns, contrasting material colors, or varying wall depths.

(3) *Major exterior materials permitted*.

(a) Major exterior materials of all walls including face brick, stone, glass, stucco, synthetic stucco, vinyl siding, architectural concrete, and precise panels shall be acceptable as the major exterior wall surface when they are incorporated into the overall design of the building. Color impregnated decorative block shall also be allowed as a major exterior wall material, and shall be required to be sealed.

(b) All materials shall be color impregnated with the exception of allowing architectural concrete precast panel systems to be painted. Painting shall not be allowed on color impregnated, major exterior materials, except that if the architectural precast panel systems are painted, then they shall be properly prepared and maintained regularly to prevent peeling, stripping, shading, or any other form of deterioration or discoloration.

(c) Proof of manufacturer's painting specifications shall be supplied prior to issuance of a building permit. This division (A)(3) shall also apply to all exterior repairs, remodeling, or expansion of existing buildings that require a building permit.

(4) *Major exterior materials prohibited*. Unadorned pre-stressed concrete panels, whether smooth or raked; non-decorative concrete block; sheet metal; corrugated metal; or unfinished metal (except copper or other metal specifically engineered for exterior architectural use, shall not be used as exterior materials. This restriction shall apply to all principal structures and to all accessory buildings except those accessory buildings not visible from any property line. No more than 25% of any exterior wall on a building shall be wood or metal accent material.

(5) *Building materials visible from roadways*. Allowable exterior building materials within public view of roadways shall include architectural precast concrete panels, (excluding raked or plain), stucco, synthetic stucco, face brick, stone, glass, and any combination thereof. No more than 25% of any exterior wall surface on a building shall be wood or metal when used as an accent material. Stucco or synthetic stucco shall not be allowed within 24 inches from grade. Color impregnated decorative concrete block may be an acceptable accent material, if approved as part of a planned unit development (PUD) or conditional use permit (CUP) approval. This subchapter shall apply to all exterior repairs, remodeling, or expansions of existing buildings that require a building permit. Roadways means all public roadways, whether local streets, collector streets, arterial, freeway, or other classification.

(6) *Roof materials*. Roofs that are exposed or an integral part of the building aesthetics shall be constructed only of commercial grade asphalt shingles, wood shingles, standing seam metal, slate, tile, copper, or materials similar in appearance and performance. Flat roofs, which are generally parallel with the first floor elevation, are not subject to these material limitations.

(7) *Materials standards*. All building and roofing materials shall meet current accepted industry standards, and tolerances, and shall be subject to review and approval by the Development Review Committee for quality, durability, and aesthetic appeal. For all new buildings and building exterior renovations, the applicant shall submit to the city product samples, color building elevations, and associated drawings which illustrate the construction techniques to be used in the installation of such materials. Building and roofing materials not specifically approved in this subchapter may be allowed by a conditional use permit or planned unit development only after it is demonstrated that the proposed material is equal to or better than approved materials. The long-range maintenance of the proposed material shall be incorporated as a condition of the approval and filed on the property.

(8) *Trash handling and recycling*. All trash, recyclable materials, and trash and recyclable materials handling equipment shall be stored within the principal structure; totally screened from public view by the principal building; or stored within an accessory structure constructed of building materials compatible with the principal structure enclosed by a roof, and readily served through swinging doors or an overhead door on tracks. Compactors shall be totally screened from eye level view from public streets and adjacent properties. Existing uses shall comply with the enclosure requirements listed in this subchapter within 6 months of receiving

notice from the city.

(9) *Accessory structures*. Garages, accessory structures, screen walls, and exposed areas of retaining walls shall be of a similar type, quality, and appearance as the principal structure.

(10) *Rooftop screening*. The ground level view of all rooftop equipment and related piping, ducting, electrical, and mechanical utilities shall be painted to match the building, designed to be compatible with the architectural treatment of the principal structure or screened by the use of parapet walls. Wood fencing shall not be used for screening.

(B) *Special minimum requirements for all residential uses*.

(1) *Building design and materials*. Building materials shall be attractive in appearance, durable, and of an architectural quality which is compatible with adjacent structures. All buildings shall be of good aesthetic and architectural quality, as demonstrated by the inclusion of at least 3 of the following elements:

(a) Accent materials;

(b) A front entry that, in addition to doors, shall have an area of accent materials a minimum of 150 square feet around the door entrance for single occupancy buildings and a minimum of 300 square feet total for the front of multi-tenant buildings (this area shall be counted as one element);

(c) Contrasting, yet complementary material colors;

(d) A combination of horizontal and vertical design features;

(e) Varying wall depths and shapes;

(f) Varying roof line, design, or materials;

(g) Decorative lighting design;

(h) Art or sculptural elements; or

(i) Other unique architectural features in the overall architectural concept.

(2) *Major exterior materials*. Major exterior surfaces on all walls shall be facing brick (glazed or unglazed), clay facing tile, stone masonry (granite, limestone, marble, slate, sandstone, or quartzite), finished texture stucco (cement or synthetic), exterior finished wood siding (painted, stained, or weather-sealed), exterior finished metal siding (not including sheet metal of any kind), or exterior finished vinyl siding.

(3) *Plans and materials samples*. For all new development projects, buildings, and building exterior renovations, the applicant or architect shall submit to the city product samples, color building elevations, and associated drawings that illustrate the construction techniques to be used in the installation of such materials. If complementary building styles, materials, and color schemes are proposed for a development, the developer shall submit to the city a plan showing the distribution of the styles, materials, and colors throughout the development.

(4) *Materials standards*: All building and roofing materials shall meet current accepted industry standards, and tolerances, and shall be subject to review and approval by the city for quality, durability, and aesthetic appeal.

(5) *Trash handling and recycling*. Except in R-1A Low-Density Residential, R-1B Urban Residential, and R-1C Old Shakopee Residential, all trash, recyclable materials, and trash and recyclable materials handling equipment shall be stored within the principal structure, totally screened from public view by the principal building, or stored within an accessory structure constructed of building materials compatible with the principal structure, enclosed by a roof, and readily served through swinging doors. Compactors that are attached to the principal structure shall be totally screened from eye level view from public streets and adjacent properties to a screening wall constructed of the same building material as the principal structure. Existing uses shall comply with the enclosure requirements listed in this subchapter within 5 years of receiving notice from the city.

(6) *On-site screening*. Except in R-1A Low-Density Residential, R-1B Urban Residential, and R-1C - Old Shakopee Residential, all mechanical equipment, utility meters, storage, and service areas and similar features shall be completely screened from the eye-level view from adjacent properties and public streets, or designed to be compatible with the architectural treatment of the principal structure.

(C) *Agricultural uses*. Agriculture uses in the Rural Residential Zone are exempt from the materials standards listed above.

(Ord. 896, passed 11-18-2014) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 677, passed 8-28-2003; Ord. 815, passed 3-26-2009)

§ 151.109 BULK STORAGE OF LIQUIDS.

All bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall comply with the requirements of the appropriate state or federal agency. Within the Agricultural Preservation (AG) and Rural Residential (RR) Zones, all bulk storage shall be in above-ground containers.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.110 GRADING, FILLING, AND EXCAVATIONS.

(A) *Definition*. The term ***GRADING*** as used in this section means any excavating, grading, filling, or any other change in the earth's topography involving removing, importing, or moving more than 50 cubic yards of soil, dirt, or similar materials.

(B) *Grading associates with development*. Grading that is proposed to be done in contemplation of, in connection with, or in any manner associated with, the development, subdivision, or platting of land, may only be undertaken after a grading permit has been approved and issued by the City Engineer pursuant to an approved preliminary plat, planned unit development, or conditional use permit. Any such grading must be done in accordance with the plans as approved by the City Engineer.

(C) *Other grading*. Grading that is not associated with development may only be done after the grading plans have been approved by the City Engineer and after the issuance of a grading permit by the City Engineer. Any such grading must be done in accordance with the plans as approved by the City Engineer.

(D) *Conditional use permit required*. A conditional use permit is required for grading or vegetation alteration in a designated floodplain or designated Shoreland Overlay Zone.

(E) *Exceptions to grading permit requirement*. A grading permit is not required for the following activities, except as may be required by other chapters of this code of ordinances, state statutes or rules, or federal law:

(1) Earthwork that will result in removing, importing, or moving less than 50 cubic yards of soil, dirt, or similar material that does not take place in any designated floodplain or Shoreland Overlay Zone;

(2) Removal of trees that are storm damaged;

(3) Agricultural activities; or

(4) Grading or tree removal that has been approved and authorized pursuant to a Woodland Management Plan subject to § 151.113, or a building permit properly issued under Ch. 111.

(F) *Grading permit submittal requirements*. No grading permit will be issued until the applicant:

(1) Pays the grading permit fee set forth in the city's most recently adopted fee schedule;

(2) Submits a complete grading permit application in a form approved by the City Engineer;

(3) Submits all plans, drawings, and calculations required by the City Engineer;

(4) Obtains approvals or permits required by other governmental entities;

(5) Provides the city with a certificate of general liability insurance with limits of at least the amounts established by M.S. § 466.04, as it may be amended from time to time, and naming the city as an additional insured for all work to be done as part of the grading; and

(6) Provides the city with a cash deposit or a letter of credit in a form approved by the City Attorney in the amount of 125% of

the estimated costs for installation and construction (including the costs of city inspection and administration) of all erosion control devices and site restoration, or $1,000 per disturbed acre, whichever is higher.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 790, passed 3-20-2008; Ord. 815, passed 3-26-2009)

§ 151.111 SCREENING.

(A) Whenever required, screening shall be accomplished through the use of landscaping, topography, site planning, or construction materials. Screening shall provide an opaque obstruction to view. All construction materials used shall be of good quality and compatible with the materials of the principal structure. Chain link fencing interwoven with slats shall not be allowed as a screening material. Landscaping materials utilized for screening shall be healthy specimens of hardy species appropriate for the purpose. All screening shall be maintained in good condition or repair and shall be replaced when it no longer serves its intended function.

(B) Screening shall be accomplished in accordance with the following:

(1) All exterior storage permitted by this chapter shall be screened, except for the following: goods being displayed for sale, materials and equipment being used for construction on the premises, merchandise located on gas station pump islands, and accessory uses in residential zones (except parking facilities as specified below);

(2) Off-street parking facilities in the Medium-Density Residential (R-2) and Multiple-Family Residential (R-3) Zones shall be screened whenever the parking facility contains more than 4 parking spaces and is within 30 feet of a lot line, and whenever the driveway to a parking facility of more than 6 parking spaces is within 15 feet of a lot line;

(3) Parking facilities within any required front yard setback shall be screened to a height of 3 feet;

(4) Screening shall be required in all business and industry zones whenever any business or industrial use is adjacent to or across a street from property zoned or developed for residential use;

(5) All roof top mechanical equipment shall be totally screened from view from adjacent properties and existing and planned streets, painted to match or complement the building, or incorporated into an architectural design which is aesthetically compatible with the building;

(6) Refuse containers in business and industry zones which are visible from existing or planned streets, residential areas, institutional uses, or places of public assembly shall be screened to a height of 6 feet;

(7) Loading and service areas located between a street and a building in any industry zone shall be screened to a height of 4 feet; and

(8) Opaque screening at a minimum height of 4 feet. The screening can be accomplished through berming with overstory deciduous and coniferous landscaping units, fencing, or topography differences when commercial or industrial development abuts existing residential development or residentially zoned properties, unless otherwise approved by the City Council.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 563, passed 11-25-1999; Ord. 631, passed 6-27-2002; Ord. 815, passed 3-26-2009)

§ 151.112 LANDSCAPING REQUIREMENTS.

Landscaping shall be required in all residential, commercial, and industrial zones.

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

EXTERIOR SIDEWALK CONNECTION. A sidewalk or trail which connects the interior sidewalk or trail network to a required or existing public sidewalk or trail.

GROSS FLOOR AREA. The total floor area for every floor inside the building envelope, including the external walls, and excluding the roof.

INTERIOR SIDEWALK CONNECTION. A sidewalk or trail network which is within a development project to connect multiple businesses, or parking facilities to primary entrances or privately owned open space areas.

SIDEWALK. A finished hard surface with a width of at least 5 feet.

TRAIL. A finished hard surface or a firm and stable natural surfacing material with a width of at least 8 feet.

(B) *Landscaping materials*.

(1) For all single-family residential uses in the R-1 A, R-1B, R-1C, R-2 and Planned Residential District, the following landscaping materials shall be provided prior to the issuance of a final certificate of occupancy:

(a) Placement of at least 6 inches of topsoil meeting requirements set in division (N) below;

(b) Each lot shall have a minimum of 2 non-ornamental trees (planted or preserved), in the front yard. In R-1 A, 3 non-ornamental trees (planted or preserved) must be placed in the front yard. If trees cannot be placed in the front yard due to easements or spacing, trees shall be placed in the rear yard;

(c) Sod shall be placed in the front yard, and

(d) The side yards and rear yard shall be seeded.

(2) Native plants may be substituted for sod or seeding as long as they meet the requirements set in § 130.18.

(C) *Landscape requirements for residential, business, and industrial uses*. For all residential uses containing 6 or more dwellings, and for all business and industrial uses, at least 15% of the lot area shall be landscaped. The landscaping shall be concentrated between the principal structure and any adjacent street right-of-way or other areas of the lot which are visible from a street.

(D) *Minimum units*. A minimum of 3 units, as defined below, of landscaping shall be required for each 1,000 square feet of gross floor area up to 10,000 square feet. An additional 2 units of landscaping shall be required for each 1,000 square feet of gross floor area over 10,000 and up to 50,000 square feet. An additional unit of landscaping shall be required for each 1,000 square feet of gross floor area over 50,000 and up to 100,000 square feet. An additional one unit of landscaping shall be required for each 1,500 square feet of gross floor area over 100,000. When calculating the required landscaping, square feet shall be rounded up to the nearest 1,000.

(E) *Impervious areas*. In addition to landscaping units required for gross building area, for projects with impervious areas which exceed 4,000 square feet, one shade tree shall be required for each 4,000 square feet of impervious area. When calculating the required landscaping, square feet shall be rounded up to the nearest 1,000 square feet and pervious pavement shall be excluded.

(F) *Parking facilities*. A portion of the required landscaping shall be placed in a parking facility containing more than 50 parking spaces in accordance with the following minimum landscaping requirements.

(1) At least 1 deciduous shade tree shall be planted within the boundaries of a parking facility for every 4,000 square feet of paved area in a parking facility.

(2) Landscape islands shall meet the following requirements:

(a) Contain at least one shade tree;

(b) Provide the appropriate available rooting space listed in division (H) below;

(c) A minimum of 10 feet wide;

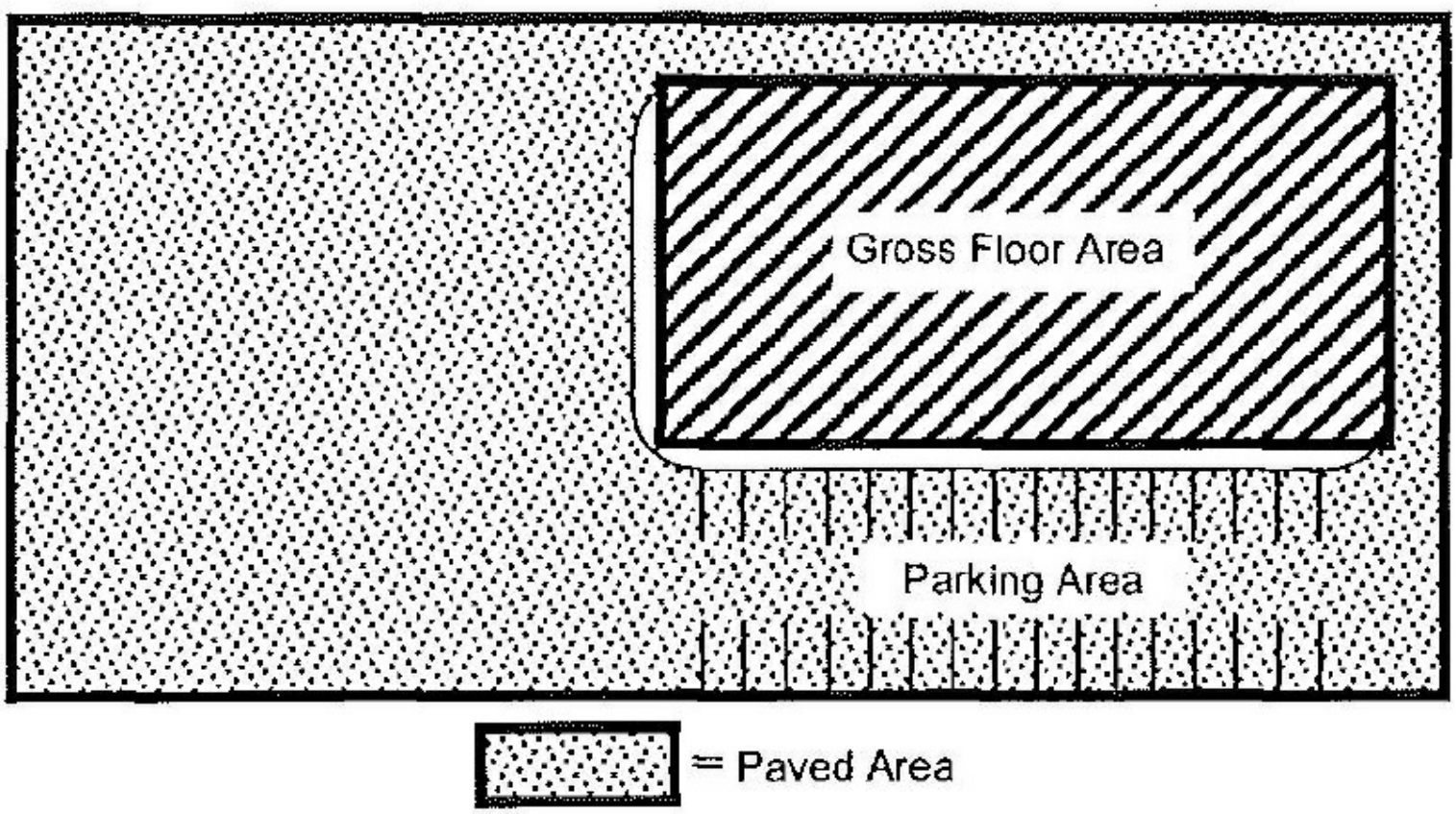
(d) Curbed around all outside corners/radius of end caps and extending 10 feet from the corner/end of the radius;

(e) Concrete ribbon curbing must be provided on any paved edge which is not curbed; and

(f) Proper drainage must be provided within landscape islands which allow storm water flow into the island.

(3) Non-permanent car stops and asphalt curbing shall not be used.

(4) (a) *Example*.



(b) *Total landscaping required*. Total landscaping required = required landscaping units for gross floor area, + required trees for paved areas.

(c) *Trees needed*. Number of trees needed to be placed within the parking area equals parking area/4,000 square feet.

(G) *Minimum size requirements*.

(1) Landscaping materials must meet the following minimum size requirements:

(a) *Deciduous trees*: One and one-quarter inch caliper;

(b) *Coniferous trees*: 5 feet in height;

(c) *Shrubbery*: 5 gallons; and

(d) *Native plants*: 800 square feet.

(2) Each of the above shall constitute one unit of landscaping. Not more than 50% of the landscaping units required by this section shall be composed of shrubbery and no more than 25% of the trees may be made of ornamental species.

(H) *Minimum soil volume for required trees*. Required trees shall be provided a minimum of 1,000 cubic feet (333 square feet if 3 feet deep) of available rooting space for a single tree or 700 cubic feet (233 square feet if 3 feet deep) per tree if space is shared with multiple trees. Available rooting space shall not be calculated as deeper than 3 vertical feet or using soils compacted beyond 80% of Standard Proctor or 200 PSI.

(I) *Allowable trees*. Landscaping trees shall not be any species presently under disease or insect epidemics, considered invasive, or a species that composes a high percentage of the city's urban forest without prior written approval from the city. Recommended species can be found in the City's *Forestry Specification Manual*.

(J) *Tree diversity*. If there are greater than or equal to 30 trees are required, they shall be composed of no more than 10% of one species, 20% of one genus, and 30% of one family. If less than 30 trees are required, one species shall make up no more than one-fourth of the total and meet the requirements set in the City's *Forestry Specifications Manual*.

(K) *Trees location*. Trees shall not be planted in a location that will interfere with other infrastructure or be in extreme competition for resources with other trees at maturity.

(L) *Landscaping credit.*

(1) If healthy landscaping of acceptable species and location exist on a site prior to development and is preserved, the city's Natural Resources staff or another position identified by the Zoning Administrator may allow credit for such landscaping to meet up to 30% of the units required for gross floor area only. Credits will be applied to an equal portion of trees and other landscaping required on the site.

(2) Credit may be given based on the following (definitions found in § 151.113(D)):

(a) *One preserved common significant tree*: 1 unit of new landscaping;

(b) *One preserved exceptional significant tree*: 2 units of new landscaping; and

(c) *Preserved high priority tree*: 4 units of new landscaping.

(M) *Pedestrian sidewalk system in Commercial and Industrial Zones*. In all zoning districts the pedestrian sidewalk system shall meet the following standards.

(1) In retail center developments, interior sidewalk connections are required between each building.

(2) A pedestrian island or walkway at least 5 feet in width shall be required for all parking facilities which have greater than 15% of their parking spaces greater than 250 feet from a main entrance to a building and in accordance with the following:

(a) A pedestrian island or walkway shall be provided to separate pedestrian traffic and vehicular traffic.

(b) A pedestrian island or walkway must provide pedestrian access spanning in a generally direct route from main entrance to the furthest drive aisle within a parking facility. City staff may allow pedestrian walkways or islands to be of a reduced length if other adjacent sidewalks and trails outside of the parking area allow pedestrians access to a main entrance of a building.

(c) Pedestrian islands or walkways which are adjacent to handicapped (ADA compliant) parking shall provide ADA compliant pedestrian ramps or be at the same elevation as the parking and loading area.

(d) The pedestrian island shall be landscaped in accordance with the requirements for landscape islands and parking lots.

(e) Pedestrian islands and walkways shall be designed to limit vehicle encroachment into walkway area, either by 2 feet setback from parking lot to walkway edge or a physical barrier such as but not limited to: curbing, trees, shrubs, or bollards.

(3) An exterior sidewalk connection is required for all sites which have existing and/or required public sidewalks, adjacent trails, parks, or greenways.

(4) Where pedestrian islands and walkways cross drive aisles, crossing areas shall be clearly designated by striping or differentiated paving material.

(N) *Topsoil*. Topsoil in landscaped areas shall be at least 6 inches in depth and a sandy loam, silt loam, loam, or sandy clay consisting of no more than 65% sand, 1.5% to 10% organic matter, a pH of 4.5 to 6.8, soluble salts less than 2 mmhos/cm, free of chemical contaminants, and not compacted beyond 80% of Standard Proctor or 200 PSI. Subsoil shall be scarified before topsoil is spread. Soil shall be generally free of debris such as large rocks and fragments of wood.

(O) *Financial security*.

(1) The city shall require submission of a financial security in form of a cash escrow, or other form of security that the city deems acceptable, in the amount of 150% of the total tree replacement estimate, which is found in the fee schedule.

(2) Number of trees required x tree replacement estimate x 150%= financial security due.

(a) The financial security shall be collected at the time of building permit issuance if no replacement trees are required per § 151.113. If replacement trees are required on the site, the financial security shall be collected before the grading permit is issued. In this situation, at the discretion of city staff, the portion of the financial security required for this division (O) may be collected at the time of building permit issuance.

(b) All required landscaping plants must be warranted to guarantee survival. The warranty period shall begin upon inspection and acceptance by city staff of the installed plants for proper planting, size, species, health, and location, If at any time during the warranty period the plants are found to be unhealthy by city staff, they are required to be replaced with the same size and species by the applicant at the soonest appropriate planting time.

1. For commercial/industrial sites and residential developers, up to 75% of the financial security may be returned upon inspection and acceptance by the city of installed plants and upon the submittal of a city-approved two-year warranty from the landscape contractor who installed the plants. This warranty must cover plant health issues relating to excess or insufficient water. The remaining financial security will be held by the city for 2 years. When reducing the financial security, 75% will be returned unless city staff feels the trees have a heightened risk of failure.

2. For builders of individual residential lots in a subdivision who receive a one-year warranty from the landscape contractor who installed the plants, up to 100% of the financial security may be returned upon:

a. Inspection and acceptance of installed plants by the city; and

b. Providing the lot buyer with the copy of the 1 year warranty from the landscape contractor and contact information to make a claim on the warranty.

(3) (a) If the financial security has not been returned in full after the inspection of the installed trees, at the end of a two-year warranty period the applicant shall schedule a final inspection with city staff.

(b) Prior to the inspection, the applicant shall confirm the following conditions are met:

1. All trees have 1 dominate leader, are free of deadwood, and injured branches;

2. All tree wrap is removed;

3. All stakes and wires are removed; and

4. Plants are in leaf.

(c) At the time of final inspection the city shall decide to:

1. Refund the financial security in full; or

2. Require the installation of new plants to replace what did not survive or are declared unhealthy by city staff. If 25% or more of the plants are required to be replaced, the appropriate amount of financial security may be held for an additional 2 years for said plants.

(4) The financial security will be used by the city only if the applicant does not install the plants required in this division (P).

(P) *Effective date*. This section becomes effective from and after its passage and publication.

(Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 487, passed 7-10-1997; Ord. 815, passed 3-26-2009; Ord. 884, passed 5-20-2014; Ord. 923, passed 11-17-2015)

§ 151.113 TREE PRESERVATION REGULATIONS.

(A) *Purpose*. The city regards natural features such as woodlands and bluffs as part of the community's identity, attracting residents and businesses to the area. City Council recognizes that not protecting these assets would have a quantifiable economic, social, and environmental loss. An objective of the city's comprehensive plan is to preserve, enhance, and maintain natural wooded areas within the city. This section aims to achieve this objective by encouraging responsible land development through rewarding those who use creative site design and minimize the impact to existing landscape and neighborhood character.

(B) *Regulations*.

(1) The following requirements and standards shall apply to any woodland alteration activity requiring a woodland alteration permit, development for which, a preliminary plat, final plat, minor subdivision, building permit, demolition permit, conditional use permit, variance, or grading permit is required by the city on any parcel of land containing a significant tree. The city is authorized to deny or revoke any permits extended by the city for individuals or organizations in violation of this section.

(2) On land located in the natural resource corridor being developed for residential purposes, the requirements and standards in this division (B) are in addition to the requirements found in the natural resource corridor design criteria in § 150.55.

(3) The requirements and standards in this section apply to commercial and industrial development only if the development is

located within the natural resource corridor, and are in addition to the requirements and standards found in the natural resource corridor design criteria in § 150.55.

(C) *Applicability*. The following developments or woodland alterations are exempt from the requirements for a woodland alteration permit:

(1) Any woodland alteration taking place on a residential property less than 2-1/2 acres in size other than for an initial dwelling;

(2) Home gardens or an individual's home landscaping, repairs, and maintenance work;

(3) Existing agricultural, horticultural, or silvicultural operations. Expansions of existing agricultural operations will be subject to the requirements of the woodland alternation permit;

(4) Emergency work to prevent or alleviate immediate damages to life, limb, property, or natural resources. In such event, if a woodland alteration permit had been required but for emergency, the obligations of this division (C) shall apply and shall be performed at the earliest reasonable time thereafter;

(5) Maintenance of existing infrastructure by the city is exempt from the requirements of this section.

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

APPLICANT. Any person submitting an application to the city for woodland alteration or any activity for which a preliminary plat, final plat, minor subdivision, building permit, demolition permit, conditional use permit, variance, or grading permit is required on land containing a significant tree.

BASIC INFRASTRUCTURE. Includes roads, streets, sidewalks, rights-of-way, sanitary sewer, storm sewer, septic tanks, drain fields, water, natural gas, electric, cable television service, drainage ways, and storm ponds.

BUILDABLE LAND. Any land not considered a wetland as defined in § 151.002 or a bluff impact zone as defined in the natural resource design criteria.

BUILDING PARAMETER. The footprint of a building or structure with a distance not to exceed 20 feet in each direction thereof. The area of disturbance on either side of a driveway, when added together, shall not exceed 20 feet.

CALIPER INCH. The measurement of a tree trunk measured at 6 inches above the root ball.

COMMON TREE. Any of the following trees: box elder; poplar; silver maple; red maple; ash; elm; cedar; willow; mulberry; balsam fir; birch; pine; spruce; tamarack; black locust; or other fast growing deciduous trees not listed as an exceptional tree.

CONTIGUOUS WOODLAND. A contiguous tree canopy greater than 2 acres regardless of land ownership.

CRITICAL ROOT ZONE or ***CRZ.*** A radius of 1-1/2 feet for every 1 inch of DBH for the tree trunk of the tree being preserved. Example: If a tree's DBH is 10 inches, its ***CRZ*** is 15 feet (10 x 1-1/2 = 15)

DEVELOPMENT. Any activity for which a preliminary plat, final plat, minor subdivision, building permit, demolition permit, conditional use permit, variance, fence permit, or grading permit is required on land containing a tree.

DIAMETER AT BREAST HEIGHT or ***DBH.*** The diameter of the trunk of a tree measured in inches 4-1/2 feet above the ground from the uphill side of the tree.

DIAMETER AT ROOT COLLAR or ***DRC.*** Used for measuring multi-stem trees. It is equal to the square root of the sum of the squared stem diameters measured above the root collar.

(a) (DRC=SUM(stem diameters$^{2)}$)

(b) Example: A tree has 3 qualifying stems; 4", 8", and 5"

DRC=[$(4)^2$ + (8)2 = (5)2]] = 10.25 inches

10.25 inches is used as the diameter for this multi-stem tree.

EXCEPTIONAL TREE. Any of the following trees: oak; hickory; basswood; sugar maple; black maple; cherry; catalpa; walnut; hackberry; hornbeam; coffeetree; butternut; buckeye; or horse chestnut.

FORESTRY SPECIALIST. A state registered land surveyor, civil engineer, landscape architect, forester, or certified arborist, who is capable of identifying a tree by species.

HAZARD TREE. A tree posing a threat to property or people that has visible hazardous defects such as dead wood, cracks, weak branch unions, decay, cankers, root problems, or poor tree architecture as defined by the U.S. Department of Agriculture, Forest Service, Northeastern Area's publication *How to Recognize Hazardous Defects in Trees (NA-FR-01-96*).

HIGH PRIORITY AREA. A group of 3 or more exceptional trees 10 inches DBH or greater with near contiguous canopies or group of any trees that provide a buffer or screening along an adjacent property or street.

HIGH PRIORITY TREE. An exceptional tree 15 inches DBH or greater, or any tree the city has a strong desire to preserve and is declared healthy by the city's Natural Resources staff.

MULTI-STEM TREE. A group of trees that share both a unified crown and common root stock. The diameter is recorded as the diameter at root collar.

NATURAL RESOURCE CORRIDOR DESIGN CRITERIA. The most recently adopted design criteria for areas that are in natural resources corridors as shown on the city's natural resource corridor map.

NATURAL RESOURCE CORRIDOR MAP. The city's most recently adopted natural resource corridor map. This map is incorporated into the city's comprehensive plan through the natural resource plan component. Boundaries on this map are approximations; defined boundaries are determined by city staff.

REPLACEMENT TREE.

(a) A tree that replaces diameter inches of a removed tree. The number of replacement trees required is based off the number of replacement inches calculated with the "remove:replace" ratio. Each replacement tree planted shall count as 2 inches of removed DBH.

(b) Example: Planting a three-inch caliper tree replaces 2 inches of the removed DBH. Planting a 1-1/4 inch caliper tree replaces 2 inches of the removed DBH.

RESIDENTIAL BUILDING PERMIT. A building permit required by § 111.02 for the building of an initial dwelling.

SIGNIFICANT TREE. A living specimen of a woody plant species that is either an exceptional tree whose diameter is 4 inches or greater DBH; a common tree whose diameter is 6 inches or greater DBH, or a multi-stem tree with 2 or more stems measuring 4 inches or greater in diameter measured above the root collar.

TREE PRESERVATION PLAN. The tree inventory, site plan, and tree replacement sheet for a site where an applicant proposes to remove a significant tree.

TREE PROTECTION FENCE. Orange snow fencing or polyethylene laminate safety netting placed at the critical root zone of a tree to be preserved.

TREE REPLACEMENT ESTIMATE. The city's cost for a 2 inch balled and burlapped tree for the current year. The city is required to get 3 quotes per year and post the chosen quote in the current fee schedule.

WOODLAND ALTERATION. Any private or public infrastructure and utility installation, building construction, excavation, grading, clearing, filling, or other earth change on any parcel of land, where any cutting, removal, or killing of a significant tree on any parcel of land will occur. Residential parcels of land less than 2-1/2 acres in size are subject to the requirements in this section only if the ***WOODLAND ALTERATION*** is for an initial dwelling.

WOODLAND ALTERATION PERMIT. A permit to allow woodland alteration.

(E) *Tree preservation plan requirements*.

(1) *Requirements generally*. All applicants are required to submit and follow the approved tree preservation plan.

(2) *Requirements of the tree preservation plan*. The tree preservation plan must be completed by a forestry specialist and meet the following requirements.

(a) *Tree inventory*.

1. The tree inventory must include every significant tree on buildable land on the property where the permit is being applied

for. In addition to trees on said property, significant trees on adjacent property which have CRZ overlapping onto said property must be inventoried. Each inventoried tree must be tagged with a unique identification number.

2. In circumstances where larger areas of the site are not being altered/graded or have no flexibility in planning around significant trees, the applicant may request permission from the city's Natural Resources Department to use a stratified random sample with a fixed area plot to calculate an estimated tree DBH and species for each stratum. The survey results must be within less than 10% of standard error for each stratum. Plots must be marked to allow for replication of survey if necessary.

3. The applicant must provide a working digital copy and hardcopy spreadsheet displaying the following information for each inventoried tree:

a. Identification number;

b. Tree size (DBH or DRC);

c. Tree species;

d. Tree type (common, exceptional, or high priority);

e. On-site or off-site (adjacent property);

f. Critical root zone (if being preserved);

g. Removed or preserved;

h. If tree is within the natural resource corridor as identified on the natural resource corridor map;

i. Whether the tree is within a contiguous woodland or high priority area; and

j. The total diameter inches of both high priority trees and significant trees inventoried must be displayed.

(b) *Site plan*.

1. *Generally*. A scaled drawing of the site including:

a. The location, identification number, and tree type (common, exceptional, or high priority) of all inventoried trees;

b. Proposed trees to remove and preserve;

c. High priority areas and contiguous woodland area;

d. Critical root zones of all trees being preserved along with any area within critical root zone that will be impacted;

e. Proposed construction/grading limits, lot lines, building parameter, basic infrastructure, buildable land, and building footprint/elevation;

f. Locations of tree protection fence and silt fence; and

g. Soil stockpile and parking locations during construction.

2. *Additional requirements*.

a. A survey of the lot meeting all possible requirements of the tree inventory and site plan must be provided to the builder of the lot. The city must be provided a digital copy of the tree survey for each individual lot.

b. Note areas with oak wilt, Dutch elm disease, Emerald Ash Borer, invasive plants such as buckthorn or others listed on the current years State Department of Agriculture's noxious weed list.

(c) *Tree replacement sheet*.

1. The tree replacement sheet is a scaled drawing of the site depicting where the replacement trees will be planted.

2. The plan must include:

a. Calculations for determination of required replacement trees and landscaping required by division (H) below;

b. Locations of all trees and other plants being installed on-site;

c. Plant list including species, size, and stock type of installed plants;

d. Planting details that meet the city's tree planting specifications; and

e. Easements, right-of-ways, construction limits, building pads, driveways, and basic infrastructure.

(3) *Residential building permit tree preservation plan*. The applicant must complete the city's "residential building-tree preservation plan" as their tree preservation plan which includes a survey meeting all requirements of this division (E) to the city.

(4) *Permit prerequisites*. No woodland alteration, grading, or building permits shall be issued by the city until the applicant has installed any required tree protection fencing and it has been inspected and approved by the city.

(5) *Changes to tree preservation plan*. Any changes to the tree preservation plan shall be submitted in writing to the city by the applicant for approval. If the change includes any additional significant tree removal, an additional inspection and approval by the city of the tree protection fencing will be required.

(6) *Currentness of tree preservation plan*. All information contained in the tree preservation plan must not be more than 2 years old at the time of submittal. City staff may grant reasonable exceptions to this requirement for residential builders of an individual lot.

(7) *Removal of significant trees*. Significant trees required to be removed pursuant to § 130.16, shall be identified as removed on the tree preservation plan and must be removed. Significant trees that are removed for this reason are exempt from the replacement requirements of this division (E).

(F) *Allowable tree removal.*

(1) *Generally*.

(a) Developers and builders are required to save as many trees as feasible when grading or building a site.

(b) When developing the site plan the developer or builder shall:

1. Identify high priority trees and areas (using the tree inventory) that are most worthy of preservation;

2. Locate roads, buildings, utilities, parking areas, or other infrastructure so as to minimize their impacts on exceptional and high priority trees;

3. Preserve trees in groves or clusters recognizing that survivability is greater for groups of trees than individuals;

4. Manipulate proposed grading and the limits of disturbance by changing the elevation/location of building pads, parking lots, and streets, and consider the use of retaining walls to reduce the impact of the trees; and

5. Review all construction factors that influence tree survivability.

(2) *Standards for residential site development.*

(a) During subdivision, 30% of the inventoried DBH on the buildable land can be removed for basic infrastructure only, without replacement. Removal in excess of this 30% DBH requires replacement of 1:1.5 DBH (remove:replace).

(b) After subdivision, trees removed within the building parameter require no replacement. Trees protected within the building parameter will count towards replacement DBH times two. Trees removed outside of the building parameter require replacement at 1:1 DBH (remove:replace) for significant trees and 1:1.5 DBH (remove:replace) for high priority trees.

(3) *Standards for commercial/industrial site development.*

(a) During site development, 60% of the inventoried DBH on the buildable land for the lot being built on is allowed to be removed without replacement. Removal in excess of this 60% DBH requires replacement of 1:1.5 DBH (remove:replace):

1. Tree removal beyond the lot being built on is allowed only for the installation of basic infrastructure. 15% of the inventoried DBH on the buildable land for that lot may be removed without replacement; and

2. Removal in excess of this 15% requires replacement of 1:1.5 DBH (remove:replace).

(b) For any applicant proposing redevelopment of a lot, 30% of the inventoried DBH on the buildable land for the lot being redeveloped is allowed to be removed without replacement. Removal in excess of this 30% requires replacement of 1:1.5 DBH (remove:replace).

(4) *Proposal to remove more than 35% of high priority trees*. If an applicant proposes to remove more than 35% of the high priority trees or 25% of a contiguous woodland, based on DBH, the city must be shown site plan alternatives considered by the applicant as evidence an attempt to remove less than said amount of trees was made and an explanation as to why this plan does not work.

(G) *Tree preservation requirements*.

(1) Credits may be given in the city's landscaping requirements in division (G)(8) below for preserved trees at a rate of:

(a) One preserved common significant tree equals 1 unit of new landscaping;

(b) One preserved exceptional significant tree equals 2 units of new landscaping; and

(c) One preserved high priority tree equals 4 units of new landscaping.

(2) The applicant must preserve all trees identified to be preserved on the tree preservation plan.

(3) For grading being done between the dates of April 1 and July 31, the CRZ for an oak tree may be increased due to threat of oak wilt. During this time, wound dressing will be applied immediately after damage of an oak tree takes place.

(4) A tree shall be considered removed if:

(a) More than 30% of the CRZ is compacted over 80% of Standard Proctor or 200 PSI, cut, filled, or paved;

(b) More than 30% of the circumference of the trunk is damaged;

(c) The hydrology in the area of preserved trees changes due to site grading; or

(d) Severe damage to an oak tree takes place between April 1 and July 31.

(5) Tree protection fence shall be placed outside of the CRZ of trees being preserved. If fencing is not possible, covering and maintaining the CRZ with geotextile fabric and 6 plus inches of wood-chip mulch will suffice.

(6) There may be no construction activity within the CRZ of a significant tree located on an adjacent property.

(H) *Tree replacement standards*.

(1) A replacement tree shall not be any species presently under disease or insect epidemics, considered invasive, or a species that composes a high percentage of the city's urban forest without prior written approval from the city. Recommended species can be found in the City's *Forestry Specification Manual.*

(2) Replacement trees must meet the following standards at time of planting:

(a) A deciduous shade tree at a minimum of 1-1/4 caliper inches or #20 container; or

(b) A coniferous tree of a minimum 5 feet in height or #20 container; and

(c) Must be planted consistent with § 90.05 and § 90.15 and meet specifications in the city's *Forestry Specifications Manual.*

(3) All replacement trees must be installed during appropriate season for that planting stock.

(4) Replacement trees are not to be installed until exterior construction activities are complete in that area.

(5) If there are greater or equal to 30 trees that are required, they shall be composed of no more than 10% of 1 species, 20% of 1 genus, and 30% of 1 family. If there are less than 30 trees are required, 1 species shall make up no more than 25% of the total.

(6) Replacement trees shall not be planted in a location that will interfere with other infrastructure or be in extreme competition for resources with other trees at maturity.

(7) The city may accept other vegetative or environmental alternatives proposed by an applicant if those alternatives are monetarily or ecologically equivalent to the value of the replacement trees required by this section.

(8) Replacement trees shall be planted not more than 18 months from the date of the final approved tree replacement sheet as part of the tree preservation plan. Extensions may be requested in writing to the city.

(9) If the number of replacement trees cannot be met on-site, the following is required:

(a) A cash payment of $400 per replacement tree shall be provided to the city for the planting of trees that are as close as possible to the site that payment was received for or to subsidize trees sold to the city's residents;

(b) Trees may be planted in city-owned or managed land as approved by the Parks, Recreation and Natural Resources Director; or

(c) Replacement trees may be installed on other properties owned by the applicant within the city. If a buffer area as defined by the natural resource corridor map is on said property, replacement trees shall be planted in this area first.

(I) *Unauthorized significant tree removal.*

(1) Any person, firm, or corporation who removes or causes the loss of a significant tree identified to be preserved on an approved tree preservation plan or without a permit allowing woodland alteration, shall be required to complete 1 of the following as determined by the city:

(a) Installation of replacement trees within the same development at a 1:2 DBH (remove:replace); or

(b) Payment to the city of $500 for every 1 inch of significant tree removed that was unauthorized. Measurement of each tree will be at DBH or diameter of the stump, whichever is readily available. This amount may be taken by the city from the financial security posted by the applicant for tree replacement, if any. A minimum of $15,000 payment will be required if measurements are unavailable.

(2) This provision also applies to a conservation easement area that is disturbed during or after development as well as removing a publicly managed tree of any size without written city authorization.

(3) The city may withhold permits from any person, firm, or corporation who fails to complete the requirements above.

(J) *Financial security.*

(1) (a) The applicant shall provide the city with a cash escrow, or other form of security that the city deems acceptable, in the amount of 150% of the total tree replacement estimate.

(b) Formula: Number of replacement trees x tree replacement estimate x 150%= financial security due.

(2) The financial security required for the replacement trees is due prior to the issuance of the grading permit or the commencement of any woodland alteration activity.

(3) All replacement trees must be warrantied to guarantee survival. The warranty period shall begin upon inspection and acceptance by city staff of the installed trees for proper planting, size, species, health, and location. If at any time during the warranty period replacement trees are found to be unhealthy by city staff, they are required to be replaced with the same size and species by the applicant at the soonest appropriate planting time.

(a) For commercial/industrial sites and residential developers, up to 75% of the financial security may be returned upon inspection and acceptance by the city of installed trees and the submittal of a city-approved two-year warranty from the landscape contractor who installed the trees. This warranty must cover tree health issues relating to excess or insufficient water. The remaining financial security will be held by the city for 2 years. When reducing the financial security, 75% will be returned unless city staff feels the trees have a heightened risk of failure.

(b) For builders of individual residential lots within a subdivision who receives a one-year warranty from the landscape contractor who installed the trees, 100% of the financial security will be returned upon:

1. Inspection and acceptance of installed trees by the city; and

2. Providing the lot buyer with the copy of the one-year warranty from the landscape contractor and contact information to make a claim on the warranty.

(4) (a) If the financial security has not been returned in full after the inspection of the installed trees, at the end of a two-year warranty period, the applicant shall schedule a final inspection with city staff.

(b) Prior to scheduling the inspection, the applicant shall confirm the following conditions are met:

1. All trees have 1 dominate leader, are free of deadwood, and injured branches;

2. All tree wrap is removed;

3. All stakes and wires are removed; and

4. Trees are in leaf.

(c) At the time of final inspection the city shall decide to:

1. Refund the financial security in full; or

2. Require the planting of new trees to replace the replacement trees which do not survive or are declared unhealthy by city staff. If 25% or more of the replacement trees are required to be replaced, the appropriate amount of financial security will be held for an additional 2 years for said trees.

(5) The financial security will be used by the city only if the applicant does not install the initial or subsequent replacement trees required in § 151.113.

(6) Any trees required to be removed per § 130.16 from a site, shall be removed and disposed of according to § 130.16 prior to release of the financial security.

(7) The city shall be exempt from the financial security requirement of this section.

(K) *General regulations*.

(1) If the applicant disagrees with the city staff's decision with respect to the interpretation or enforcement of § 151.113, the applicant may appeal that decision by following the procedure established in § 151.016.

(2) Land previously planted for commercial tree farm purposes shall be subject to tree replacement requirements as determined appropriate by the city with the maximum requirement being the current allowable tree removal requirements of division (F) above.

(3) Inspections required in § 151.113 will be conducted by staff from the City's Natural Resources Department or other city staff as assigned.

(L) *Effective date*. This section becomes effective from and after its passage and publication.

Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009; Ord. 883, passed 5-20-2014)

§ 151.114 EXTERIOR LIGHTING.

(A) (1) Exterior lighting shall be designed and constructed to limit direct illumination and glare upon or into any other lot or street.

(2) Reflected glare or spill light shall not exceed five-tenths footcandle as measured on the property line when abutting any residential, lot, and 1 footcandle on any property line abutting a business or industrial lot. Street lights installed in public right-of-way and lights in city parks shall be excepted from these standards.

(B) (1) Mitigative measures shall be employed to limit glare and spill light to protect neighboring lots and to maintain traffic safety on streets.

(2) These measures shall include lenses, shields, louvers, prismatic control devices, and limitations on the height and type of fixtures. The city also may limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.

(C) No flickering or flashing lights shall be permitted except where required by the Federal Aviation Administration.

(D) Direct off-site views of the light source shall be blocked or screened except for globe or ornamental light fixtures, which may be approved when it can be demonstrated that the off-site impacts stemming from direct views of the light source are mitigated by the fixture design or location.

(E) The city may require submission of a light distribution plan if deemed necessary to ensure compliance with the intent of this chapter.

(F) In any Industry Zone, light may spill from 1 lot to any other lot; provided, that it does not extend beyond the boundaries of the

industry zone.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 377, passed 7-7-1994; Ord. 338, passed 8-6-1992; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.115 NOISE AND VIBRATION.

(A) Noises emanating from any use shall be in compliance with § 130.45, and shall not exceed any standards set by the State Pollution Control Agency.

(B) Any use established or remodeled after the effective date of this chapter shall be so operated as to prevent vibration discernable at any point beyond the lot line of the site on which such use is located.

(C) Ground vibration and noise caused by trains, aircraft operations, temporary construction, or demolition, or vehicles other than those involved in a major commercial recreation use or on private property shall be exempt from these regulations.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25--1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009) Penalty, see § 151.999

§ 151.116 SMOKE AND PARTICULATE MATTER.

No use shall produce or emit smoke, dust, or particulate matter exceeding applicable regulations established by the State Pollution Control Agency.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009) Penalty, see § 151.999

§ 151.117 ODOR.

No use shall produce odors exceeding applicable regulations established by the State Pollution Control Agency.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 377, passed 7-7-1994; Ord. 338, passed 8-6-1992; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009) Penalty, see § 151.999

§ 151.118 TOXIC OR NOXIOUS MATTER.

No use or operation shall emit toxic or noxious matter across the property line which exceeds applicable regulations of the State Pollution Control Agency.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009) Penalty, see § 151.999

§ 151.119 HAZARDOUS MATERIALS OR WASTE, INFECTIOUS WASTE, AND POLLUTANTS.

(A) Each use involving hazardous materials or waste, infectious waste, or pollutants, shall comply with all applicable laws and regulations of the U.S. Environmental Protection Agency, the office of Safety and Health Administration, the State Pollution Control Agency, the State Department of Health, and any other applicable federal, state, and local regulatory provisions.

(B) (1) Any project for which an EAW is mandatory under Minn. Rules 4410.4300, shall request an EAW from the responsible governmental unit specified in that rule.

(2) The project shall not be developed until all environmental issues have been resolved to the satisfaction of the responsible governmental unit, including incorporating any mitigation measures into the project.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.120 RADIATION.

No operation shall be conducted which exceeds the standards established by applicable state or federal regulations.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978;; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009) Penalty, see § 151.999

§ 151.121 ELECTROMAGNETIC INTERFERENCE.

No use shall produce electromagnetic interference which exceeds applicable standards established by any applicable federal or state regulations.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009) Penalty, see § 151.999

§ 151.122 RECEIVE-ONLY SATELLITE DISH ANTENNAS AND OTHER ANTENNA DEVICES.

Receive-only satellite dish antennas and other antenna devices are subject to the following requirements:

(A) Shall be in compliance with all city building and electrical code requirements;

(B) Shall have verification that the structural design and mounting system have been approved by a professional engineer;

(C) Shall be limited to 1 per building or, if more than 1 antenna is proposed, the antennas shall be clustered in a single, screened location;

(D) Shall not have any advertising message on the antenna structure;

(E) Shall comply with setback requirements for principal structures and in no event shall be located between the principal structure and the front lot line;

(F) Shall be screened to the greatest extent practicable to minimize visual impacts on surrounding properties. Screening shall include landscape materials for ground mounted antennas, and materials compatible with those utilized on the exterior of the building for roof mounted antennas;

(G) Shall be designed and engineered to collapse progressively within the distance between the antenna and the property line, if the antenna is located closer to a property line than the height of the antenna; and

(H) Shall be in compliance with all applicable Federal Communications Commission requirements.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.123 PRESERVATION OF SURFACE WATERS.

(A) (1) (a) All development shall be planned and constructed to minimize the impact on natural drainage.

(b) Above-ground drainage systems may be constructed to augment the natural drainage system. The widths of a constructed drainage system shaft be sufficient to adequately channel runoff from a ten-year storm.

(2) (a) Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

(b) No fences or structures may be constructed across the drainage system which will reduce or restrict the flow of water.

(3) The bed of the drainage system shall be at such a grade that will not result in a velocity that will cause erosion of the banks of the drainage system, and in no event shall exceed 5 feet of horizontal distance for each foot of vertical distance.

(B) (1) The bed of the drainage system shall be protected with turf, sod, or concrete. If turf or sod will not function properly, riprap may be used. Rip rap shall consist of quarried limestone or fieldstone.

(2) The riprap shall be no smaller than 2 inches square nor larger than 2 feet square.

(C) The banks or walls of the drainage system shall be protected with turf, if the flow velocity in the drainage system is such that erosion of the turf sidewall will occur and the velocity cannot be decreased by means of velocity control structures, gravel or riprap may be used to replace the turf.

(D) (1) To prevent sedimentation of drainage systems, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.

(2) During construction, the city may require temporary pervious sediment traps, such as a construction of bales of hay with a low spillway embankment subchapter of sand and gravel that permits a slow movement of water while filtering sediment.

(3) The city also shall utilize permanent impervious sediment control structures, such as debris basins, desilting basins, or silt traps to remove sediment from runoff prior to its disposal in any permanent body of water.

(E) (1) All erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning.

(2) Sediment basins shall be maintained as the need occurs to ensure continuous desilting action.

(3) The areas utilized for runoff drainage systems and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and drainage systems shall be landscaped.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.124 GROUND WATER PROTECTION.

(A) No use may dispose of any waste directly into the ground water in violation of the requirements of the State Pollution Control Agency.

(B) No use shall operate in a manner which will cause alterations of the existing water table, unless such alteration meets all requirements of the State Pollution Control Agency.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

§ 151.125 SIGHT TRIANGLES.

(A) The area between 3 and 10 feet in height shall be maintained clear of all obstructions at the intersections of streets with other streets and driveways for safety of pedestrians and people in vehicles. Structures and landscaping are prohibited within any sight triangle, except that structures or landscaping are permitted if they do not exceed 1 foot in width or diameter.

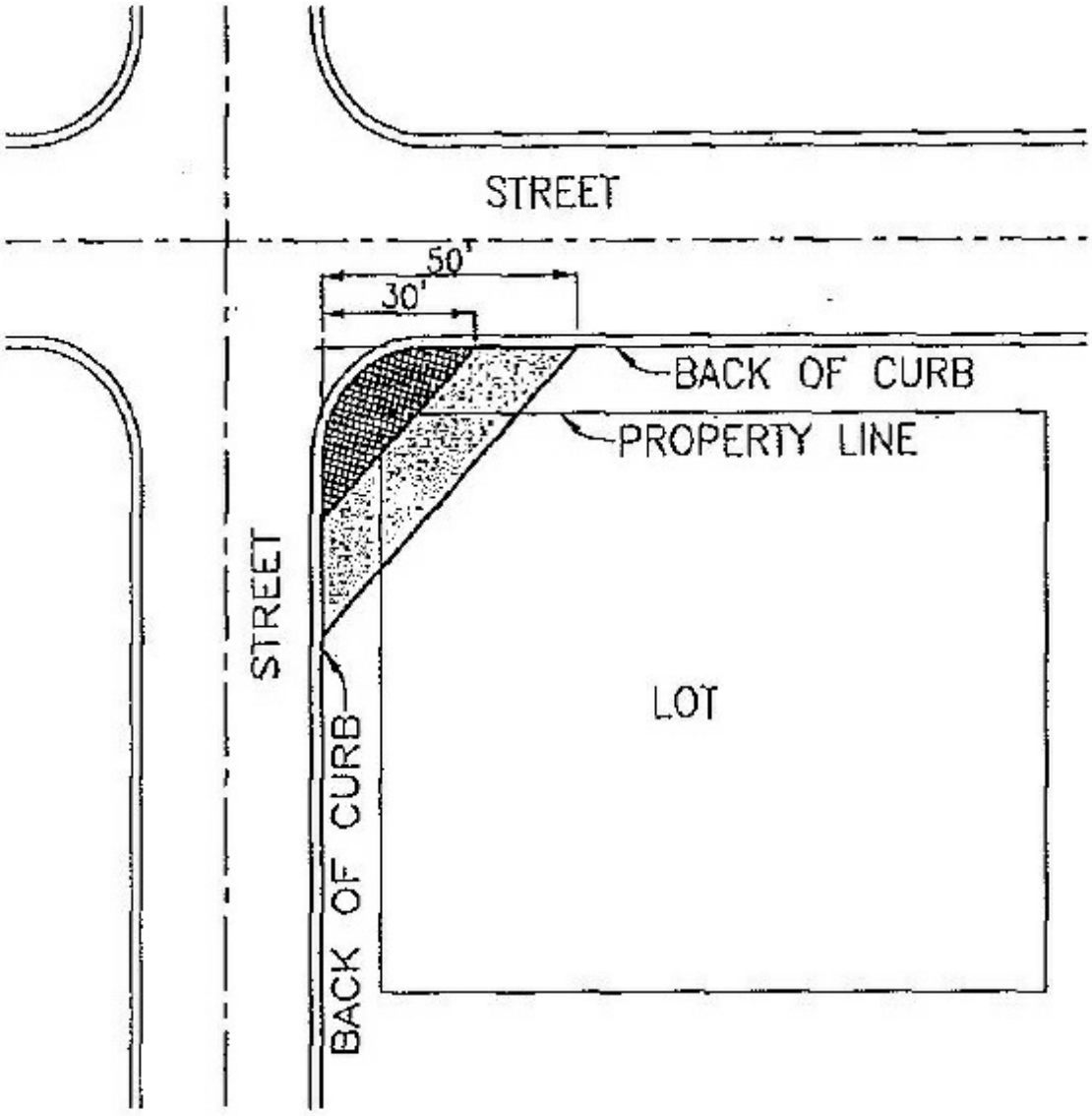
(B) Property in the Central Business (B-3) Zone is exempt from the sight triangle requirements.

(1) *Street intersections*. The chart below specifies the required clear area for each street intersection. The City Engineer may require additional triangle area if a traffic study or special conditions indicate that additional protection is needed.

Intersection of Width	***Major Arterial***	***Minor Arterial***	***Collector***	***Local***
Collector	B	B	B	
Local	B	B	B	B
Major Arterial	A	A	B	B
Minor Arterial	A	B	B	B

Key:
A = 100 feet by 100 feet sight triangle
B = 50 feet by 50 feet sight triangle for lots receiving preliminary plat approval after March 26, 2009
B = 30 feet by 30 feet sight triangle for lots receiving preliminary plat approval prior to March 26, 2009

(2) *Processing sight triangles*. The following graphic shall serve as an explanation as to the process for measuring sight triangles.



(3) *Driveway intersections*.

(a) The street/driveway sight triangle shall be calculated by measuring a straight line down the edges of the pavement or curb or projection thereof, and drawing a third straight line connecting the extremities of the other 2 lines.

(b) On the right side of the driveway, as determined when standing in the driveway facing the street, the sight triangle shall extend 40 feet down the street and 12 feet from the edge of the street up the driveway pavement, with a third line connecting the other 2 lines. On the left side of the driveway, the sight triangle shall extend 65 feet down the street and 12 feet up the driveway pavement, with a third line connecting the other 2 lines.

(2013 Code, § 11.60) (Ord. 1, passed 4-1-1978; Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 132, passed 9-22-1983; Ord. 158, passed 1-31-1985; Ord. 246, passed 6-17-1988; Ord. 253, passed 10-14-1988; Ord. 259, passed 11-11-1988; Ord. 272, passed 8-25-1989; Ord. 338, passed 8-6-1992; Ord. 377, passed 7-7-1994; Ord. 434, passed 11-30-1995; Ord. 430, passed 2-1-1996; Ord. 815, passed 3-26-2009)

PARKING

§ 151.140 PURPOSE.

The purpose for the regulation of off-street parking is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of vehicles based on the use of

the land.

(2013 Code, § 11.61) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 185, passed 12-25-1985; Ord. 246, passed 6-17-1988; Ord. 259, passed 11-11-1988; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994; Ord. 546, passed 5-6-1999; Ord. 877, passed 12-3-2013)

§ 151.141 GENERAL PROVISIONS.

(A) *Application*. The provisions of this subchapter apply to the required and non-required off-street parking in all zones, except that property within the Central Business (B-3) Zone is exempt from the off-street parking requirements. These provisions apply to the entire area used for vehicular circulation and parking.

(B) *Where may park*.

(1) Except in the Agricultural Preservation (AG) Zone, a vehicle may be parked only on a street or alley, or in a properly surfaced parking facility. Vehicles may be parked on grass or outside a parking facility when a flood or other emergency prohibits the use of the parking facility, or when the required parking for a particular use is insufficient to meet a business rush, such as during the holiday season.

(2) A recreational vehicle may be parked for more than 24 hours only on an approved sales lot or self-storage facility, as specified in the parking provisions relating to residential parking facilities, or in a campground.

(C) *Expansion of existing uses*. Any existing use or structure which is altered or enlarged must comply with the provisions of this subchapter.

(D) *Reduction of parking spaces*. Off-street parking spaces existing upon the effective date of this chapter shall not be reduced in number below the requirements set forth in this subchapter for that use.

(E) *Use of parking space*. No required off-street parking space shall be used for an open sales lot or for open storage.

(F) *Maintenance*. The owner of the principal use, uses, or structure shall maintain the parking facility and curbing in a neat and adequate manner.

(G) *Residential parking facilities*.

(1) *Required*. Off-street parking facilities located outside of required setbacks shall be provided for at least 2 vehicles for all single-family dwellings. A suitable location for both a garage measuring at least 20 feet by 24 feet and a ten-foot driveway, which do not require a variance, shall be provided and indicated as such on a survey or site plan to be submitted when applying for a building permit to construct a new dwelling or alter an existing garage.

(2) *Use*. Off-street parking facilities in an Rural Residential (RR), Low-Density Residential (R-1A), Urban Residential (R-1B), Old Shakopee Residential (R-1C), Medium-Density (R-2), or Multiple-Family Residential (R-3) Zone, shall be used solely for the parking of personal vehicles.

(3) *Location*. Off-street parking facilities in a residential zone shall not be located in the front yard setback or in a street side yard setback.

(4) *Recreational vehicles*.

(a) In a residential zone, 1 of the exterior driveway parking spaces for a dwelling or a properly surfaced parking area meeting parking requirements for the zone may be used for parking or storing an unoccupied recreational vehicle that is either defined as a recreational vehicle (RV) under state law or which is a camper and that is less than 35 feet in length. If parked in a location other than the driveway within a single-family residential zone, RVs and campers shall be setback 5 feet from an interior side or rear lot line, 15 feet from a street side lot line. RVs and camper shall not be parked in the front yard unless they utilize an exterior driveway parking space. No living quarters shall be maintained nor any business practiced in the recreational vehicle while it is so parked or stored. The recreational vehicle shall utilize only the existing driveway into the site. The vehicle shall be owned or leased by the property owner or resident on which the vehicle is parked.

(b) No more than 2 utility trailers, trailers for recreational vehicles such as snowmobiles and all-terrain vehicles (ATVs), and boats 20 feet or less in length may be stored in a rear or side yard on lawn or turf or other surface, but must be setback 5 feet from an interior side or rear lot line, 15 feet from a street side lot line.

(c) A camper or RV recreational vehicle brought by a visitor may be parked or occupied for a period not to exceed 30 days while visiting the resident of the property.

(5) *Sales trailers*. Sales trailers may not be parked in any zoning district in the city.

(H) *Combined parking facilities*. Required off-street parking facilities for more than 1 use, lot, or parcel of land may be provided through joint parking facility, a shared parking plan, or a cooperative parking plan. When required off-street parking facilities are provided off-site, written authority for using such property for off-street parking during the existence of the use shall be filed with the city. No such parking facility at its closest point shall be located more then 300 feet from the use being served.

(1) *Joint parking*. Off-street parking facilities for 2 or more uses may be provided in a joint facility. The joint parking facility shall include sufficient spaces to meet the separate requirements for each use.

(2) *Shared parking*.

(a) Off-street parking facilities for 2 or more uses with substantially different hours of operation may be provided in a shared facility.

(b) Evidence must be submitted showing that the uses normally are not open, used, or operated during substantially the same hours. Up to 50% of the required off-street parking facilities for a use may be provided in a shared parking facility.

(c) Shared parking is not a right, and the city shall have the discretion to give credit up to the 50% limitation based upon its review of plans, uses, and other information related to the off-street parking needs.

(3) *Cooperative parking*. Off-street parking facilities for 1 use may be provided on the property of another use in a cooperative facility when that use has more parking spaces than are required. The excess spaces may be shared with another use through a cooperative parking plan.

(4) *Application*.

(a) An application for approval of a shared parking plan or a cooperative parking plan shall be filed with the Zoning Administrator. The application shall be signed by the owner or owners of the entire land area to be included within the cooperative parking plan, the owner or owners of all structures then existing on such land areas, and all parties having a legal interest in such land area and structures.

(b) The application shall include plans showing the location of the use or structures for which off-street parking facilities are required, the location of the off-street parking facilities, and the schedule of times used by those sharing in common.

(5) *Review*. The application shall be reviewed by the Board of Adjustment and Appeals. Upon approval of a shared parking plan or a cooperative parking plan, the plan shall be recorded in the office of the County Recorder.

(6) *Residential parking facilities*. Required off-street parking in residential zones shall be on the same lot or parcel of land as the structure for which parking is required.

(2013 Code, § 11.61) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 185, passed 12-25-1985; Ord. 246, passed 6-17-1988; Ord. 259, passed 11-11-1988; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994; Ord. 546, passed 5-6-1999; Ord. 609, passed 8-30-2001; Ord. 648, passed 1-2-2003; Ord. 877, passed 12-3-2013) Penalty, see § 151.999

§ 151.142 DESIGN STANDARDS.

(A) *Access*. Parking facilities shall provide a direct access to a public alley or street.

(B) *Traffic flow*.

(1) Parking facilities shall be designed so that vehicles may enter, circulate, park, and exit in a convenient and orderly fashion.

(2) Backing onto streets is prohibited in multiple-family, business, and industry zones.

(C) *Angled parking*. Parking spaces oriented at less than 90 degrees to the aisle shall be limited to one-way circulation.

(D) *Surfacing*.

(1) Except for parking facilities for single-family dwellings within the Agricultural Preservation (AG), Rural Residential (RR), Low-Density Residential (R-1A), Urban Residential (R-1B), and Old Shakopee Residential (R-1C) Zones, the entire parking facility shall be surfaced with asphalt or concrete.

(2) Parking facilities for only 1 or 2 vehicles may be surfaced with other material which is dust-free and impervious to penetration by water.

(E) *Setback*.

(1) In all multiple-family residential, business, and industry zones, a minimum 15-foot setback shall be required between any parking facility and a street.

(2) A minimum five-foot setback shall be required between any parking facility and any other property line.

(3) These parking setbacks shall be landscaped in accordance with the requirements listed in §§ 151.105 through 151.125.

(F) *Handicap facilities*. Required handicap spaces and ramps shall be provided as specified in the State Building Code.

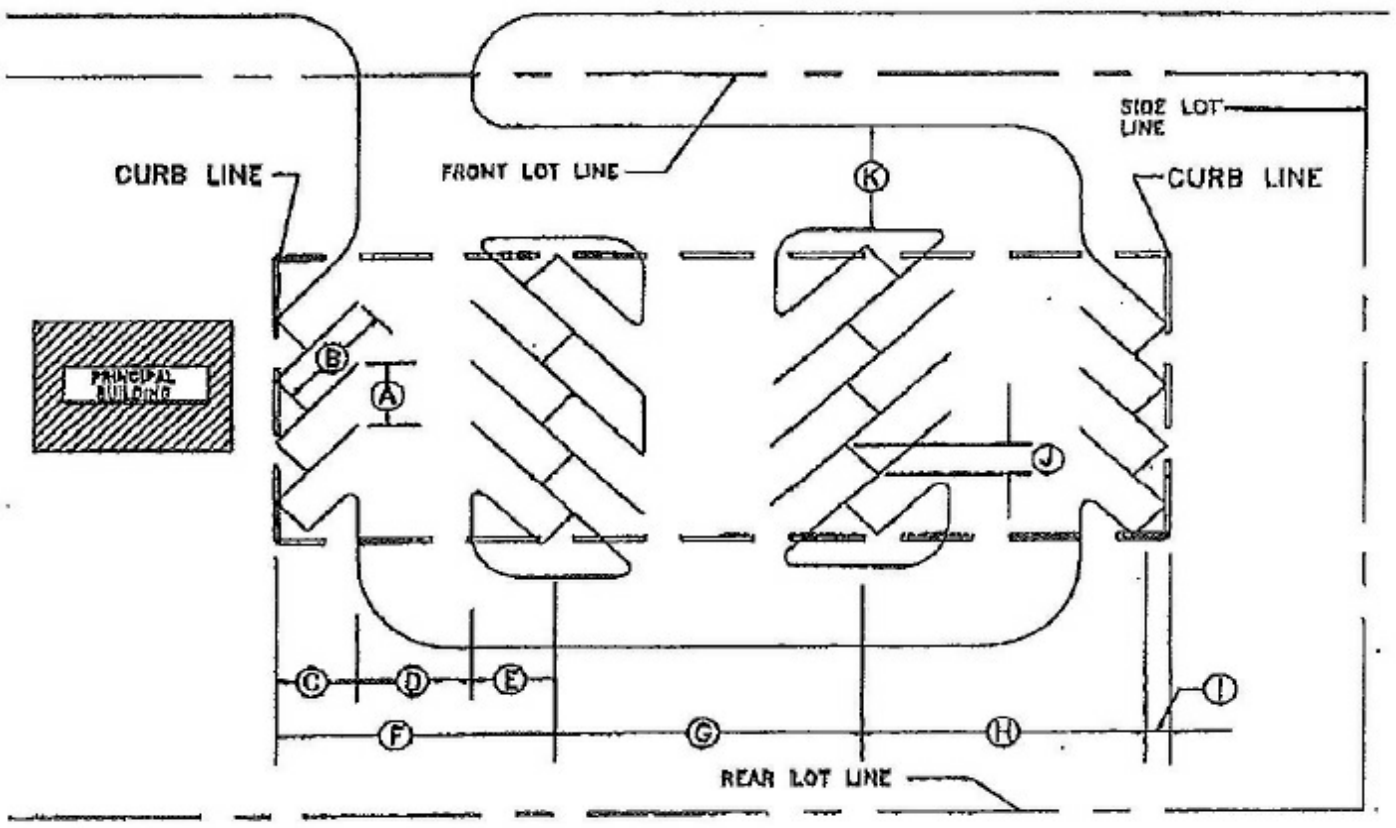
(G) *Minimum size of parking spaces*.

(1) Each parking space shall be not less than 9 feet wide.

(2) Other minimum dimensional requirements for the design of parking facilities are shown in the following table, Table 1 - Parking Lot Design. Parking spaces beyond the minimum required number may be smaller or of different dimensions.

Table 1

Parking Lot Design



Angle of Parking					
Dimension	***Diagram***	***45 Degrees***	***60 Degrees***	***75 Degrees***	***90 Degrees***

Space width, parallel to aisle	A	12.7	10.4	9.3	9.0
Space length of line	B	25.0	22.0	20.0	18.0
Space depth	C	17.5	19.0	19.5	18.0
Aisle width between space lines	D	12.0	16.0	23.0	24.0
Space depth, interlock	E	15.3	17.5	18.8	24.0
Module, edge of pavement to interlock	F	44.8	52.5	61.3	64.0
Module interlocking	G	42.6	51.0	61.0	64.0
Module, interlocking to curb face	H	42.8	50.2	58,8	60.5
Bumper overhang	I	1.0	1.0	1.0	1.0
Offset	J	6.3	2.7	0.5	0.0
Cross aisle, 1 way	K	14.0	14.0	14.0	14.0
Cross aisle, 2 way	K	24.0	24.0	24.0	24.0

(H) *Bumper overhang*. To receive a reduction in space depth for parking stalls adjacent to walkways or sidewalks, a clear space in the sidewalk or walkway of at least 5 feet in width must be maintained that is free of sign posts, bumper overhangs, bollards, or other obstructions. Screening such as trees, shrubs, bushes, or fencing must be located and maintained in a manner that allows at least 1.0 foot of clear space between the parking area and the screening both at the time of installation and at full and mature size for plantings.

(2013 Code, § 11.61) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 185, passed 12-25-1985; Ord. 246, passed 6-17-1988; Ord. 259, passed 11-11-1988; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994; Ord. 546, passed 5-6-1999; Ord. 877, passed 12-3-2013; Ord. 914, passed 9-1-2015)

§ 151.143 REQUIRED NUMBER OF PARKING SPACES.

(A) *Floor area*. The term ***FLOOR AREA*** for the purpose of calculating the number of required off-street parking spaces, shall be the total floor area of all levels of a building, minus hallways, utility spaces, storage areas for uses not involving warehousing, and other accessory spaces.

(B) *Calculating space*. When determining the number of required off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.

(C) *Benches*. In public assembly places where seating is provided on benches, pews, or other similar items, each 22 inches of such seating shall be counted as 1 seat for the purpose of determining required parking.

(D) *Uses not listed*. When the parking requirements for a use are not specified, the Zoning Administrator shall determine which listed use or uses are the most similar to the proposed use. The parking requirements for that listed use or uses shall apply to the proposed use.

(E) *Required off-street parking*. Each use must provide, at a minimum, the number of required off-street parking spaces listed on Table 2 in this division (E). For lots or parcels of land containing more than 1 use, the minimum number of required off-street parking spaces for each use must be provided.

Table 2 ***Number of Required Off-Street Parking Spaces*** ***Per Unit of Measurement***	
Use or Use Category	***Number***
Business/Industry	
Airports	1 per 4 seats in waiting area, plus 1 per employee on largest shift
Animal hospitals, veterinary clinics	1 per 500 square feet
Bowling alley	5 per bowling lane
Breweries	1 per 500 square feet of floor area or employee on largest shift, whichever is greater
Brewpubs	1 per 3 seats, plus 1 per 50 square feet of congregation area
Bus terminals	1 per 500 square feet
Car washes	3 per stall
Cemeteries	4 minimum
Commercial feedlots	1 per employee on largest shift
Concrete or asphalt plants	1 per employee on largest shift
Day care facility	1 per 5 children
Distilleries	1 per 500 square feet of floor area or employee on largest shift, whichever is greater, plus 1 per 50 square feet congregation area
Dry cleaning plants	1 per 300 square feet
Financial institutions	1 per 200 square feet of floor area
Forestry and nursery uses	1 per 500 square feet of floor area
Funeral homes	1 per employee on largest shift
Furniture and appliance stores	1 per 400 square feet of floor area
Gas stations	1 per 6 gas pumps, plus 1 per 150 square feet
Grain elevators	1 per employee on largest shift
Industrial or technical training schools	1 per 3 students, plus 1 per employee on largest shift
Junkyards	1 per employee on largest shift

Kennels	1 per 400 square feet
Landscaping service and contractors	1 per employee on largest shift, plus 1 per 500 square feet of sales area
Manufacturing and processing facilities	1 per 500 square feet of floor area, or employee on largest shift, whichever is greater
Medical, dental clinics	1 per 200 square feet of floor area
Motor freight terminals	1 per 1,000 square feet, plus 1 per 200 square feet of office area
Offices	1 per 250 square feet of floor area
Open sales lots, uses with exterior storage of goods for sale	1 per 500 square feet of sales area
Printing or publishing facilities	1 per employee on largest shift
Private lodges and clubs	1 per 4 seats
Railroad operations	1 per employee on largest shift
Recycling or composting facilities	1 per 1,000 square feet of floor area, or employee on largest shift, whichever is greater
Research, experimental or testing facilities	1 per employee on largest shift
Restaurants (Class I)	1 per 3 seats
Restaurants (Class II)	1 per 50 square feet of floor area, plus 1 per 3 seats
Retail centers	1 per 200 square feet of flood area
Retail establishments	1 per 150 square feet of floor area
Riding academies	1 per 4 horse stalls
Seasonal produce stands	3 minimum
Self-storage facilities	1 per 10 storage units, plus 1 per employee on largest shift, plus 1 per resident manager
Service garages for major vehicle repair	4 minimum, plus 1 per service stall
Taprooms	1 per 3 seats, plus 1 per 50 square feet of congregation area
Tasting area, winery, distillery	1 per 3 seats, plus 1 per 50 square feet of congregation area
Taverns	1 per 50 square feet of floor area
Taxi stands	1 per employee
Theaters, auditoriums, or sports arenas	1 per 4 seats
Truck or trailer rental facilities	1 per 400 square feet

Uses having a drive-up or drive-through window	1 driving lane
Vehicle, marine, implement, garden supply, building and material sates	6 minimum, plus 1 per 500 square feet of floor area over 1,000 square feet
Vehicle rental facilities	1 per rental vehicle, plus 1 per 500 square feet of floor area
Vending machine establishments	1 per vending machine
Warehouses	1 per employee largest shift
Wholesaling establishments	1 per 1,000 square feet of floor area, or employee on largest shift, whichever is greater
Wineries	1 per 500 square feet of floor area or employee on largest shift, whichever is greater
Education, Cultural, and Institutional	
Athletic field	1 per 8 seats minimum
Churches, auditoriums, funeral homes	1 per 4 seats in main assembly area
Commercial recreation	15 commercial, plus 50 per acre of developed recreation area
Golf courses, sports facility, fitness club	20 minimum, plus 1 per 300 square feet or floor area over 1,000 square feet
Hospitals	1 per 2 hospital beds
Middle, elementary, and nursery schools	1 per classroom, plus 1 per 50 student design capacity
Nursing homes	4 minimum, plus 1 per 500 square feet of floor area over 1,000 square feet
Public buildings, community centers, public libraries, art galleries, museums, post office	10 minimum, plus 1 per 300 square feet of floor area over 1,000 square feet
Public recreation	1 per 3 persons attending, design capacity
Senior high schools	1 per 7 student design capacity, plus 1 per classroom
Residential and Lodging	
Bed and breakfast inns	1 per guest room 1 per operator
Motels, hotels - excluding restaurants and night clubs	1 per guest room, plus 1 per 2 employees
Multiple-family dwellings	2.25 per dwelling
Senior citizen housing and congregate	

housing	1 per dwelling
Single-family, two-family dwellings	2 per dwelling
Multiple-family dwellings	2.25 per dwelling

(2013 Code, § 11.61) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 185, passed 12-25-1985; Ord. 246, passed 6-17-1988; Ord. 259, passed 11-11-1988; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994; Ord. 546, passed 5-6-1999; Ord. 877, passed 12-3-2013)

DRIVEWAYS

§ 151.155 PURPOSE.

The purpose of the regulation of driveways is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for driveways based on the use of the land.

(2013 Code, § 11.62) (Ord. 377, passed 7-7-1994; Ord. 753 passed 3-30-2006; Ord. 789, passed 1-3-2008)

§ 151.156 GENERAL PROVISIONS.

(A) *Application*. The provisions of this subchapter apply to the required and non-required driveways in all zones.

(B) *Use of driveway*. No required off-street driveway shall be used for an open sales lot or for open storage.

(C) *Maintenance*. The owner of the principal use, uses, or structure shall maintain the driveway and curbs in a neat and adequate manner.

(D) *Shared driveways*. Driveways serving more than 1 lot or parcel of land may be approved by the Board of Adjustment and Appeals except when said plans are part of the platting process, at which time such driveways shall be approved by the Planning Commission. The Board of Adjustment and Appeals in approving shared driveways shall require the following:

(1) A property owner's association or maintenance agreement for the driveway must be executed designating the party responsible for maintaining the driveway, and granting that party the right to assess all properties benefitting from the driveway for the cost of maintenance. The agreement also shall grant the city the right to enter and maintain the driveway when it deems necessary to maintain safe access, and to charge the cost of such maintenance back to the property owners.

(2) When the proposed shared driveway is an existing driveway, the Board of Adjustment and Appeals shall review the condition of the driveway and make a determination as to whether the driveway must be upgraded to ensure proper and safe access. If the Board of Adjustment and Appeals determines that the driveway must be upgraded, the homeowner's association or property owners will be required to execute a developer's agreement with the city for the improvement of the driveway.

(2013 Code, § 11.62) (Ord. 377, passed 7-7-1994; Ord. 506, passed 12-2-1997; Ord. 753 passed 3-30-2006; Ord. 789, passed 1-3-2008) Penalty, see § 151.999

§ 151.157 DESIGN STANDARDS.

(A) *Access*. No vehicle shall be allowed to access a lot or parcel of land except at the approved driveway location.

(B) *Turn around area*. Construction of on-site turn around facilities is required for multiple-family, business, and industrial uses in order to eliminate any backing out onto the street.

(C) *Traffic flow*. Driveways shall be designed so that vehicles may enter, circulate, park, and exit parking facilities in a convenient and orderly fashion. The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on the streets, traffic hazards, and excessive traffic through residential areas, particularly commercial vehicles.

(D) *Surfacing*. Except for driveways for single-family dwellings within the Agricultural Preservation (AG), Rural Residential (RR), Low-Density Residential (R-1A), Urban Residential (R-1B), and Old Shakopee Residential (R-1C) Zones, the entire driveway shall be surfaced with asphalt or concrete. Driveways leading to parking spaces for only 1 or 2 vehicles, and driveways in excess of 50 feet in length in the Agricultural Preservation (AG) and Rural Residential (RR) Zones, may be surfaced with other material which is dust-free and impervious to penetration by water.

(E) *Curb cuts*. The number and size of driveways intersecting with city streets shall be in accordance with Ch. 90 and as approved by the City Engineer. Driveways onto county roads are regulated by the County Engineer. Driveways onto state and federal highways are regulated by the State Department of Transportation.

(F) *Driveway setback*. Driveways shall be setback a minimum of 5 feet from any side or rear lot line, except in the Old Shakopee Residential (R-1C) Zone driveways may be setback 3 feet from a side property line if the property was a lot of record prior to May 3, 1977, and there are no underlying easements in the location of the driveway.

(G) *Number of driveways*. A maximum of 1 driveway per 200 feet of frontage shall be allowed for multiple-family, business, and industrial uses.

(H) *Driveway widths*. Driveways widths shall be as approved by the City Engineer.

(I) *Driveway location*. Driveways shall be located outside the sight triangle and as far as possible from any street corner. Driveway locations shall be selected to cause the least interference with the movement of traffic on streets.

(J) *Emergency vehicles*. All driveways shall have a minimum width of 10 feet with a pavement strength capable of supporting emergency vehicles.

(K) *Maximum driveway grade*. No driveway grade shall exceed 10% within 25 feet of the property line, or such other grade as approved by the City Engineer.

(2013 Code, § 11.62) (Ord. 377, passed 7-7-1994; Ord. 753 passed 3-30-2006; Ord. 789, passed 1-3-2008) Penalty, see § 151.999

LOADING FACILITIES

§ 151.170 PURPOSE.

The purpose of the regulation of off-street loading is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for loading and unloading from vehicles based on the use of the land.

(2013 Code, § 11.63) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994)

§ 151.171 GENERAL PROVISIONS.

(A) *Application*. The provisions of this subchapter apply to the required and non-required off-street loading facilities in all zones, except that property within the Central Business (B-3) Zone is exempt from the off-street loading requirements.

(B) *Expansion of existing uses*. Any existing use or structure which is altered or enlarged must comply with the provisions of this subchapter.

(C) *Calculation*. All loading space requirements shall be in addition to any parking space or driveway requirements.

(D) *Use of loading space*. No required loading space shall be used for an open sales lot or exterior storage.

(E) *Maintenance*. The owner of the principal use, uses, or structure shall maintain the loading space.

(2013 Code, § 11.63) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994)

§ 151.172 DESIGN STANDARDS.

(A) *Access*. Loading spaces shall have a direct access to a public alley or street.

(B) *Traffic flow*. Loading spaces shall be designed so that vehicles may enter and exit in a convenient and orderly fashion. Backing onto streets is prohibited in multiple-family, business, and industry zones. The loading spaces shall be located to cause the least interference with the movement of traffic on streets.

(C) *Surfacing*. All loading spaces shall be surfaced with asphalt or concrete.

(D) *Setback*. All loading spaces shall be setback a minimum of 25 feet from any street corner. Loading spaces are prohibited in the front yard setback.

(E) *Minimum size of loading spaces*.

(1) Unless otherwise specified, the first space required shall be not less than 12 feet in width and 50 feet in length. Additional spaces shall be not less than 12 feet in width and 50 feet in length.

(2) All loading spaces shall maintain a height of 14 feet or more.

(2013 Code, § 11.63) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994)

§ 151.173 REQUIRED NUMBER OF LOADING SPACES.

Each use specified below shall have, as a minimum, the listed number of loading spaces.

(A) *Auditorium, convention hall, public buildings, hospitals, schools, hotels, sports arena*. One loading space 25 feet in length for each building having 1,000 to 10,000 square feet of floor area, plus 1 loading space 50 feet in length for each 10,000 to 100,000 square feet of floor area.

(B) *Retail establishments, offices*. One loading space 25 feet in length for each building having 6,000 square feet or more of floor area; plus 1 loading space 50 feet in length for each 25,000 to 100,000 square feet of floor area.

(C) *Manufacturing, fabrication, processing, and warehousing*.

(1) One loading space 25 feet in length for each building having 3,000 square feet of floor area; plus 1 loading space 50 feet in length for each 25,000 to 100,000 square feet of floor area, plus 1 loading space for each 50,000 square feet of floor area over the first 100,000 square feet of floor area.

(2) At least half of the loading spaces for buildings above 100,000 square feet of floor area shall be 50 feet in length.

(2013 Code, § 11.63) (Ord. 31, passed 10-25-1979; Ord. 96, passed 11-11-1982; Ord. 158, passed 1-31-1985; Ord. 264, passed 5-26-1989; Ord. 279, passed 12-1-1989; Ord. 377, passed 7-7-1994)

SIGNS

§ 151.185 PURPOSE.

The purpose of this section is to provide the opportunity for creative and effective communication using signage, while demonstrating concern for the appearance of the city on the part of those designing, displaying, or otherwise utilizing signs, and at the same time assuring that the public is not endangered, annoyed, or distracted by the unsafe, disorderly, indiscriminate, or unnecessary use of signs.

(Ord. 898, passed 12-16-2014)

§ 151.186 DEFINITIONS.

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

meaning.

CIVIC GROUP. Civic groups are people joined together to network with each other and serve the community. Examples of civic groups include, but are not limited to, Lions Club, Toastmasters, garden clubs, Friends of the Library, and Rotary Club.

IDEOLOGICAL and ***NON-COMMERCIAL SIGNS.*** A sign that does not name or advertise a product, service, or business, but only expresses a viewpoint, opinion, idea, or non-commercial message, such as a public service message or a message relating to politics, religion, or charity. Any sign allowed under this subchapter may contain ideological or non-commercial copy in lieu of any other copy.

SIGN. Any letter, work, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication whether painted, pasted, printed, affixed, or constructed which is displayed in view of the general public for informational or communicative purpose.

SIGN, ADVERTISING. Any non-governmental sign located outdoors which advertises or directs attention to a business, profession, product, service, commodity, entertainment, event, or other activities not necessarily offered, sold, or rented upon the premises where the sign is located or to which it is attached.

SIGN, ALPHA/NUMERIC MONOCHROME. A sign or portion of a sign that can display electronic non-pictorial text. In the case of gas stations, pricing boards for gasoline/diesel shall not be counted toward allowable signage area.

SIGN AREA. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface This excludes any supports, uprights, or structures on which any sign is supported unless such supports, uprights, or structures are an integral part of the display or sign. Where the sign is double-faced, the ***SIGN AREA*** shall be calculated by measuring only 1 of the faces, meaning that the maximum sign area allowed shall be permitted on each face of the sign. Where the sign has more than 2 sides, all faces shall be limited to the total area permitted on double-faced signs, meaning that the total sign area allowed will decrease with additional faces.

SIGN, AREA IDENTIFICATION. A free standing sign, located at the entrance to or within the identified premises, which identifies the name of a neighborhood, residential subdivision, multiple-family residential complex, shopping center or area, industrial area, office complex, planned unit development, or any combination of the above, but which does not advertise any business within the area.

SIGN, DIRECTIONAL. A sign erected on private property for the purpose of directing vehicular and pedestrian traffic to facilities or functions open to the general public.

SIGN, ELECTRONIC MESSAGE CENTERS. A sign or portion of a sign that can electronically display any combination of words, graphics, pictorial text, and multiple colors. In the case of gas stations, pricing boards for gasoline/diesel shall not be counted toward allowable signage area.

SIGN, FLASHING. A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts, and creates the illusion of intermittent flashing light by streaming, graphic bursts, showing movement, or any mode of lighting which resembles zooming, twinkling, or sparkling.

SIGN, FREE STANDING. A sign which is placed in the ground and not affixed to any part of any structure. A ***FREE STANDING SIGN*** may be of any of the following types:

(1) ***FREE STANDING GROUND SIGN.*** A sign which is mounted on free standing shafts, posts, or walls which are 7 feet or less in height and are attached to the ground;

(2) ***FREE STANDING PYLON SIGN.*** A sign which is mounted on free standing shafts, posts, or walls which extend more than 7 feet in height and are attached to the ground; and

(3) ***SANDWICH BOARD SIGN.*** A sign which has 2 single face areas that are attached on only 1 end so as to create a triangular stance, but which is not permanently affixed to the ground.

SIGN, GOVERNMENT. A sign which is erected by or with the approval of a governmental unit.

SIGN, ILLUMINATED. A sign which has an artificial light source directed upon it or 1 which has an interior light source.

SIGN, INSTITUTIONAL. A sign or bulletin board which identifies the name and other characteristics of a public or private

institution on the site where the sign is located.

SIGN, MURAL. Any mural or pictorial scene painted or attached on the wall of a structure or painted on a sign board affixed to a wall, and which has as its primary purpose artistic effect and an ideological or non-commercial message.

SIGN, NAMEPLATE. A sign indicating the name of a building, building occupant, development, project, or any sign which serves as a directory of building occupants.

SIGN, PORTABLE. A sign so designed as to be movable from 1 location to another and which is not permanently attached to the ground or any structure.

SIGN, PUBLIC INFORMATION. A sign conveying information of general interest to the public, such as time, temperature, date, atmospheric conditions, or upcoming civic, community, cultural, social, or athletic events.

SIGN, TEMPORARY. Any sign intended to be displayed for a limited period of time only.

SIGN, WALL. Any sign which is attached or affixed to the exterior wall of any building, and projects from the wall 18 inches or less.

SIGN, WINDOW. A sign attached to, placed upon, or painted on the interior or exterior of a window or door of a building and which is intended for viewing from the exterior of such building.

(Ord. 898, passed 12-16-2014)

§ 151.187 SIGNS NOT REGULATED.

This subchapter is not intended to and does not regulate the following types of signs:

(A) Signs that are located on the interior of a building or structure;

(B) Signs that can only be viewed from within the lot or parcel of land on which they are located and not from a street or other public right-of-way;

(C) National flags, flags of political subdivisions, 1 campus/business flag per site for each principal use per site, only when displayed in conjunction with national or political subdivision flags and not exceeding the area of the national/political subdivision, or 60 square feet, whichever is less;

(D) Governmental signs; permanent governmental signs for control of traffic and other regulatory/notification purposes and street signs are exempt from the provision of this subchapter; and

(E) Murals; works of art that do not contain a commercial message.

(Ord. 898, passed 12-16-2014; Ord. 902, passed 2-17-2015)

§ 151.188 GENERAL REGULATIONS.

The following regulations shall apply in all zoning districts and overlay zones unless otherwise specifically noted elsewhere in this subchapter.

(A) The following signs are prohibited unless specifically permitted by another provision in this subchapter.

(B) Signs that are not expressly permitted by this subchapter are deemed to be prohibited:

(1) Roof signs, which include signs mounted on a roof surface or projecting above the roof line of a structure and whether attached to the structure or cantilevered over the structure;

(2) Revolving and moving signs;

(3) Flashing signs;

(4) Portable signs including signage trailers and other similar moveable signs;

(5) Projecting signs in zoning districts other than the B-3 Zone/Historic Town Center Overlay Zone, in which they are specifically permitted. If a wall sign projects more than 18 inches from the face of the building, it is deemed to be a projecting sign;

(6) Signs attached to utility poles, trees, rocks, and other similar natural and human-made surfaces;

(7) Signs within public right-of-way are prohibited except for the following:

(a) Signs erected by a government agency including, for example, street, warning, directional, and other official, non-commercial signs;

(b) Public announcement signs for city-wide or free community events sponsored by civic groups. Such signs shall not require application for or issuance of a sign permit, and shall be removed within 7 days of the event;

(c) Directional real estate signs for community-wide annual events such as the "Parade of Homes". Such signs shall be removed within 7 days of the event; and

(d) Other temporary signs as identified in this subchapter.

(8) Signs that are designed to resemble official traffic or other official signs and are intended to be viewed from public roadways but which are not official traffic or other official signs;

(9) Illuminated signs that exhibit any of the following: blinking; flashing; rotation; or is determined to interfere with safe traffic operations;

(10) Signs that obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering on to public streets;

(11) Exterior signs that obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, ingress, or egress for any structure;

(12) Offensive signs containing any indecent or obscene material; and

(13) Signs advertising products or services off premises, except that advertising signs that exist on the effective date of this subchapter shall be considered legal, nonconforming, and subject to § 151.017.

(Ord. 898, passed 12-16-2014)

§ 151.189 COMMERCIAL, MAJOR RECREATION, INDUSTRIAL, AND BUSINESS PARK SIGN REGULATIONS.

Table 1 (Sign Standards) and Table 2 (Temporary Signs) shall apply to signs in the city's overlay districts as depicted on the sign overlay zone map and in the industrial and business park zones.

(A) *Alpha/numeric, monochrome signs allowed in Contemporary Commercial, Traditional Commercial, and Major Recreation Overlay Zones.* One alpha/numeric monochrome sign shall be allowed per parcel subject to the following conditions.

(1) Only 1 type of electronic signage is permitted per parcel. Either an alpha/numeric monochrome sign can be used or an electronic message center sign may be used.

(2) The alpha/numeric monochrome sign shall be limited to 32 square feet in area (per side for double sided signs). The sign area for the alpha/numeric monochrome sign shall count against the overall signage area allowed for the use. In the Major Recreation Zone, the area of alpha/numeric monochrome signs may be increased through PUD approval.

(3) The alpha/numeric monochrome sign may not change more often than once every 8 seconds.

(4) Alpha/numeric monochrome signs must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.

(5) Alpha/numeric monochrome signs shall be limited to 500 NITS from sunset to sunrise. These signs shall be limited to 7500 NITS from sunrise to sunset. Additionally, the sign shall not exceed three-tenths foot candles above ambient light levels 100 feet from the sign face.

(6) Only 1 alpha/numeric monochrome sign shall be allowed per sign face.

(7) The images and messages displayed must be static, and the transition from 1 static display to another must be instantaneous

without any special effects.

(8) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(9) If there is a violation of brightness or frequency of message changing standards, the adjustment must be made within 1 business day upon written or verbal notification from the city.

(10) Alpha/numeric monochrome signs must be designed and equipped to freeze the device in 1 position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner/operator must immediately stop the display when notified by the city that it is not in compliance with this subchapter.

(B) *Electronic message center signs allowed in the Contemporary Commercial, Traditional Commercial, and Major Recreation Zones.* One electronic message center sign shall be allowed per parcel subject to the following conditions:

(1) Only 1 type of electronic signage is permitted per parcel. Either an alpha/numeric monochrome sign can be used or an electronic message center sign may be used.

(2) The electronic message center sign shall be limited to 32 square feet in area (per side for double sided signs). The sign area for the electronic message center sign shall count against the overall signage area allowed for the use. In the Major Recreation Zone, the area of alpha/numeric monochrome signs may be increased through PUD approval.

(3) The electronic message center sign may not change more often than once every 8 seconds.

(4) All electronic message center signs must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.

(5) Electronic message center signs shall be limited to 500 NITS from sunset to sunrise. These signs shall be limited to 7500 NITS from sunrise to sunset. Additionally, the sign shall not exceed three- tenths-foot candles above ambient light levels 100 feet from the sign face.

(6) The electronic message center sign shall be located a minimum of 125 feet from the sign structure to the boundary of a residential use.

(7) Only 1 electronic message center sign shall be allowed per sign face.

(8) The images and messages displayed must be static, and the transition from 1 static display to another must be instantaneous without any special effects.

(9) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(10) If there is a violation of brightness or frequency of message changing standards, the adjustment must be made within 1 business day upon written or verbal notification from the city.

(11) Electronic message center signs must be designed and equipped to freeze the device in 1 position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner/operator must immediately stop the display when notified by the city that it is not in compliance with this subchapter.

(C) *Mural signs.* Mural signs may be permitted in the Contemporary Commercial, Traditional Commercial, and Major Recreation Zones with a conditional use permit.

(D) *Business complex signs.*

(1) In the Traditional Town Center Overlay Zone, business complex signs shall be allowed as follows:

(a) Shall be allowed up to 30 square feet per tenant, for the front of the building;

(b) Shall be allowed up to 30 square feet per tenant for a side of the building other than the front; and

(c) Total allowable signage for a business complex is to be calculated using the above requirements. Placement of wall signs for business complexes may be allowed on front and non-front walls at the discretion of the property owners so long as the total amount of signage does not exceed the allowable amount of signage established in divisions (E)(1)(a) and (E)(1)(b) above. Divisions (E)(1)(a) and (E)(1)(b) above are thus not to be construed to automatically limit each and every tenant to 30 square feet per tenant.

(2) In the Contemporary Commercial and Traditional Commercial Corridors, business complex signs shall be allowed as follows:

(a) Shall be allowed a maximum of 200 square feet per tenant for the front of the building;

(b) Shall be allowed a maximum of 100 square feet per tenant for a side of the building other than the front; and

(c) Total allowable signage for a business complex is to be calculated using the above requirements. Placement of wall signs for business complexes may be allowed on front and non-front walls at the discretion of the property owners so long as the total amount of signage does not exceed the allowable amount of signage established in divisions (D)(2)(a) and (D)(2)(b) above. Divisions (D)(2)(a) and (D)(2)(b) above are thus not to be construed to automatically limit each and every tenant to 30 square feet per tenant.

(E) *Process for sign adjustment.*

(1) *Common signage plan.*

(a) If the owners of 2 or more contiguous lots (disregarding intervening streets and alleys); the owner of a single lot with more than 1 building (not including any accessory building); or the occupants/owners of bays in a commercial building with 2 or more bays file with the city, for approval by the City's Board of Adjustment and Appeals, a common signage plan, up to a 50% increase in the maximum total sign area shall be allowed for each building or lot included. This bonus shall be allocated as the owner(s)/occupants elect. The owners/occupants may also seek an upward deviation in the permitted sign height.

(b) The common signage plan shall specify standards for consistency among all signs on the lot(s)/buildings affected by the plan with regard to color scheme, lettering or graphic style, lighting, location, or each sign on the buildings, materials, and sign proportions.

(c) Other provisions of a common signage plan may contain other restrictions as the owner(s)/occupants of the lots, development, and/or buildings may reasonably determine, and which are filed with the city as part of the common signage plan.

(2) *Sign adjustments*. Adjustments to the requirements and standards for the height, number, type, lighting, area, and/or location of a sign or signs established by this subchapter may be approved by the Board of Adjustments and Appeals. In order to approve any sign standard adjustment, the following criteria of either divisions (E)(2)(a), (E)(2)(b), or (E)(2)(c) below shall be satisfied, and in all cases the necessary criteria of division (F)(2)(d) below shall be satisfied:

(a) There are site conditions that require a sign adjustment to allow the sign to be reasonably visible from a street immediately adjacent to the site;

(b) The sign adjustment will allow a sign that relates in size, shape, materials, color, illumination, and character to the function and architectural character of the building or property on which the sign will be located;

(c) The sign adjustment will allow a sign of exceptional design or a style that will enhance the surroundings or that is more consistent with the architecture and design of the site; and

(d) The sign adjustment will not result in a sign that is inconsistent with the purpose of the zoning district in which the property is located or the current land use.

(F) *PUD overlay zoning districts*. Signage within PUD overlay districts shall comply with the requirements of the underlying zoning district as identified in this chapter, unless otherwise requested and specified in the PUD approval.

(G) *Governmental, institutional, and recreational signs; message boards*. A place of worship, public building, institution, or public recreation facility shall be allowed the following:

(1) One sign or message board per entrance up to a maximum of 4 per structure;

(2) The message board shall not exceed 30 square feet in area per sign side;

(3) The message board shall not exceed 8 feet maximum height; and

(4) May be single or double-faced.

(Ord. 898, passed 12-16-2014; Ord. 902, passed 2-17-2015)

§ 151.190 LOCATION OF SIGNS.

(A) *Freestanding signs*. Freestanding signs may advertise only a business(es), commodity(ies), or service(s) that is/are located,

offered for sale, or performed on the lot(s) or parcel(s) of land where the sign is located, and must be located at least 10 feet from any right-of-way line.

(B) *Awnings, canopies, and the like*. Awnings, canopies, marquees, and other similar structures that are attached to/projecting over the entrance to a building shall be considered a part of the structure to which they are attached. One sign is permitted on each side and front of an awning, canopy, or marquee. An awning, canopy, or marquee shall not be considered part of the wall area for purposes of calculating permissible wall sign area. Limitations on the size of signs on awnings, canopies, and marquees apply regardless of the number of tenants located within the building.

(C) *Location to right-of-way lines*. All signs shall be located at least 10 feet from any right-of-way line.

(D) *Public information signs*. Public information signs shall be counted as part of the allowable signage provided within the all zones.

(E) *Address signs*. Identification numbers are required in all zoning districts and should be clearly visible from the street. Address signs do not reduce permitted sign area, and do not require sign permits.

(F) *Off-premises signage*.

(1) Off-premises signs shall be allowed for the purpose of advertising temporary and/or seasonal community events open to the general public.

(2) Off-premises signs shall comply with the following:

(a) Shall obtain a temporary sign permit;

(b) Shall be limited to total display time of 130 days per calendar year;

(c) Shall be located along Highway 169 frontage;

(d) Shall provide written consent from the property owner;

(e) Shall be limited to 150 square feet in size;

(f) Shall be a one-sided sign;

(g) Shall not be mounted on trucks or semi-trailers;

(h) Shall not exceed 20 feet in height;

(i) Shall be located within one-half mile of Highway 169 interchanges;

(j) Shall be limited to 1 sign per event and location; and

(k) Shall be setback 10 feet from the property line.

(G) *Directional signs*. Permanent directional signs are permitted according to the following:

(1) One directional sign per driveway entrance/exit;

(2) Shall have at least 50% of the copy area related to directional message;

(3) Eight square feet maximum; and

(4) Four feet maximum height.

(Ord. 898, passed 12-16-2014; Ord. 933, passed 6-21-2016)

§ 151.191 ADDITIONAL TRADITIONAL TOWN CENTER, TRADITIONAL COMMERCIAL CORRIDOR, AND CONTEMPORARY COMMERCIAL OVERLAY ZONE SIGNAGE REGULATIONS.

The following additional regulations shall apply to the above-named overlay zones.

(A) *Sandwich board signs*. Sandwich board signs are permitted subject to the following:

(1) Shall not exceed 12 square feet per sign face;

(2) Must be placed on the sidewalk directly in front of the establishment during hours of operation only;

(3) Must not interfere with pedestrian traffic; and

(4) A sign permit is not required.

(B) *Nameplates*. One nameplate sign per occupant, not to exceed 2 square feet shall be allowed. Multi-tenant buildings shall be allowed 1 sign not to exceed 12 square feet. No sign shall have more than 2 display surfaces. A sign permit is not required.

(C) *Area identification signs*. Area identification signs shall be permitted, subject to the following:

(1) One monument style sign;

(2) Shall not exceed 50 square feet copy and graphic area;

(3) Ten feet maximum height;

(4) Shall be located at a primary entrance to the project area;

(5) City shall not be responsible for maintenance of sign; and

(6) Shall be setback at least 10 feet from any right-of-way line.

(D) *Awnings*. Awnings shall comply with the following conditions:

(1) All portions of any awning sign shall be at least 8 feet above any sidewalk;

(2) A valance attached to an awning may extend 12 inches below the roof of the awning at the point of attachment, but in no case shall any portion of a valance be less than 7 feet in height above a sidewalk;

(3) Awnings may extend over public property not more than 7 feet from the face of a supporting building, but no portion shall extend nearer than 2 feet to the face of the nearest curb line measured horizontally, nor interfere with public placements in the right-of-way;

(4) In no case shall the awning extend over public property more than two-thirds of the distance from the property line to the nearest curb in front of the building;

(5) Awning supports shall not extend down into public property; and

(6) Signs placed on awnings shall be counted as part of the total allowable signage allowed.

(E) *Projecting signs*. The following additional regulations shall apply to projecting signs, which are allowed only in the Traditional Town Center Overlay Zone:

(1) Shall be hung at right angles from a building face;

(2) The use of guy wires, cables, or chains as supports or bracing is prohibited;

(3) The sign and bracket shall not project from the building face greater than 60 inches or within 24 inches of the back of curb, whichever is less;

(4) The sign and bracket shall be setback a minimum of 48 inches from light poles or any other public utility structure;

(5) The sign and bracket must meet all minimum clearance requirements from overhead electric conductors in the National Electrical Safety Code;

(6) The lowest point of the sign or bracket shall provide a minimum of 8 feet of clearance above grade;

(7) The top of the sign or bracket shall not be higher than the building wall or parapet of the building it is attached to;

(8) No face of the sign shall exceed 16 square feet; and

(9) The sign must be constructed of wood, porcelain, metal, stone, glass, masonry, tile, or similar material.

(Ord. 898, passed 12-16-2014)

§ 151.192 ADDITIONAL TRADITIONAL COMMERCIAL, CONTEMPORARY COMMERCIAL, AND MAJOR RECREATION OVERLAY ZONE REGULATION.

The following additional regulations shall apply to the Traditional Commercial, Contemporary Commercial, and Major Recreation Overlay Zones.

(A) *Placement of wall signs*. Placement of wall signs may be allowed on front and non-front walls at the discretion of property owners so long as the total amount of signage does not exceed what is established in this subchapter.

(B) *Gasoline pump island signs*.

(1) Gasoline pump island canopies shall be allowed up to 2 signs in addition to those otherwise permitted on the principal structure.

(2) Canopy signs shall not exceed 10 feet in length or 20 square feet in area each.

(3) If 2 signs are used, they shall not be placed on the same side of the canopy.

(4) Lettering on the signs shall not exceed 2 feet in height or the average height of the letters on the sign attached to the principal structure, whichever is less.

(5) Canopy signs shall be placed to provide a six-inch minimum border between the top, bottom, and sides of the canopy face. The sign area is determined by measuring the text only. Stripes or colors are not included in the sign area computation.

(6) Shall be located a minimum of 75 feet from any residential zoned property.

(C) *Area identification signs*. Area identification signs shall be permitted, subject to the following:

(1) One monument style sign;

(2) Shall not exceed 50 square feet;

(3) Shall be located at a primary entrance to the project area;

(4) Ten feet maximum height;

(5) The city shall not be responsible for maintenance of sign; and

(6) Shall be setback at least 10 feet from any right-of-way line.

(Ord. 898, passed 12-16-2014) Penalty, see § 151.999

§ 151.193 ADDITIONAL OFFICE, BUSINESS PARK, AND INDUSTRIAL ZONE SIGN REGULATIONS.

The following additional signs shall be permitted in Office Business (B-2), Business Park (BP), Light Industrial (I-1), and Heavy Industrial (I-2) Zones. Placement of wall signs within the Office Business (B-2, Light Industrial (I-1), Heavy Industrial (I-2), and Business Park (BP) Zones may be allowed on front and non-front walls at the discretion of property owners so long as the total amount of signage does not exceed the total amount of wall signage permitted by this subchapter.

(A) *Area identification signs*. Area identification signs shall be permitted subject to the following:

(1) One monument style sign;

(2) Shall not exceed 50 square feet copy and graphic area;

(3) Ten feet maximum height;

(4) Shall be located at a primary entrance to the project area; and

(5) The city shall not be responsible for maintenance of sign.

(B) *Public information signs*. One wall or monument style sign, subject to the above regulations, shall be permitted for each building.

(C) *Governmental, institutional, and recreational signs*. A place of worship, public building, institution, or public recreation facility shall be allowed the following:

(1) One sign or message board per entrance up to a maximum of 4 per structure;

(2) Shall not exceed 30 square feet in area;

(3) Shall be setback at least 10 feet from any right-of-way line;

(4) Eight feet maximum height; and

(5) May be single- or double-faced.

(Ord. 898, passed 12-16-2014)

§ 151.194 ADDITIONAL RESIDENTIAL ZONE REGULATIONS.

The following signs shall be permitted in the city's residential zones:

(A) Nameplate signs are permitted for single-family or two-family dwellings, not to exceed two

square feet. Nameplate signs shall not require a sign permit.

(B) Area identification signs shall be permitted subject to the following:

(1) One monument sign will be permitted per project area;

(2) Shall not exceed 24 square feet of copy and graphic area;

(3) Six feet maximum height;

(4) Shall be located at a primary entrance to the project area; and

(5) The city shall not be responsible for maintenance of area identification signs.

(C) All signs identifying the presence of a residential security system are permitted not to exceed 1 square foot. One sign is permitted per driveway connection to a public right-of-way or where 1 private driveway converges into another.

(D) Governmental, place of worship, and public recreational signs as follows:

(1) Governmental/public buildings, places of worship, and public recreation facilities shall be allowed the following:

(a) One sign or message board per entrance up to a maximum of 4 per structure subject to the following:

1. Each sign shall not exceed 30 square feet in area per sign face;

2. Eight feet maximum height; or

3. May be single- or double-faced.

(b) If the entity has multiple facilities that provide public activities, wall or freestanding signage shall be allowed subject to the following:

1. Sign face shall not exceed 100 square feet in area for 1 side;

2. Eight feet height maximum;

3. May be single- or double-faced;

4. Shall be limited to 1 sign; and

5. Shall be placed in a location with a minimum lot size of 10 acres.

(2) Sign copy shall be limited to describing information and activities occurring on-site or at the entity's other facilities only, or copy as allowed under § 151.187.

(E) Commercial recreation signs shall be permitted subject to the following:

(1) One sign or message board per entrance up to a maximum of 4 per structure for a commercial recreation facility;

(2) Shall not exceed 30 square feet in area;

(3) Shall be setback at least 10 feet from any right-of-way line;

(4) Eight feet maximum height; and

(5) May be single- or double-faced.

(F) Public information signs shall be permitted subject to the following provisions:

(1) Such signs are permitted only in conjunction with the following uses: public buildings; public or private schools; churches and other places of worship; and public recreational facilities;

(2) The sign shall be setback a minimum of 10 feet from any right-of-way line, and shall be located outside any sign triangle as determined by the City Engineer;

(3) The sign shall not exceed 8 feet in height;

(4) The sign shall not exceed 1 sign per entrance to the structure, up to a maximum of 2 signs per structure;

(5) The sign shall not exceed 30 square feet in area; and

(6) The message on the sign may change periodically, but shall not change any more frequently than once per 8 seconds.

(G) Signage within the Planned Residential District (PRD) Zone shall be allowed consistent with the regulations of the underlying use.

(Ord. 898, passed 12-16-2014; Ord. 933, passed 6-21-2016)

§ 151.195 ADMINISTRATION AND ENFORCEMENT.

(A) *Sign permit*. Except as specifically exempted in this subchapter, it is unlawful for any person to install, erect, relocate, maintain, or modify any sign without first obtaining a sign permit.

(B) *Application*.

(1) Applications for sign permits shall be made in writing to the Zoning Administrator or designee upon forms provided by the city.

(2) Each application for a sign permit shall set forth the following:

(a) Correct legal description of the tract of land upon which the sign presently exists or is proposed to be located;

(b) Location of sign on said parcel;

(c) The manner of construction;

(d) Dimensions of the sign;

(e) Materials used in the sign;

(f) Complete description and sketch or photograph of the sign; and

(g) Fees as set forth in the city's adopted fee schedule.

(C) *Enforcement procedures*. The following actions may be taken when an illegal sign is erected.

(1) The property owner shall be notified via certified mail that the illegal signage is to be removed by a date certain.

(2) If the signage has not been removed within 10 days of receipt of notice, the violation shall be reported to the appropriate city department for citation and subsequent prosecution if required.

(3) (a) The city may at any time and without notice impound signs that have been installed on public property or within any public right-of-way or easement.

(b) The sign owner may retrieve the signs according to the following:

1. A fee must be paid to the city consistent with the fees established in the city's adopted fee schedule relative to the applicable staff person's hourly rate for time to impound said sign(s). For each subsequent impoundment in a calendar year, the specified fee shall be doubled;

2. The sign may be retrieved from a designated impound area during routine business hours and within 10 days from the date of impounding. After 10 days, the city will dispose of the sign; and

3. The city may not be held liable for any damage to impounded signs.

(4) If construction or installation of the sign has not commenced within 120 days from the date of issuance of the permit, said permit shall become void. There shall be no refund of permit application fee for a voided sign permit.

(D) *Abandoned signs and signs in disrepair*. An abandoned sign or sign in disrepair is prohibited and shall be removed by the owner of the premises within 30 days after notification. If compliance with the provisions of this subchapter are not achieved within 30 days after notification, the city may remove the sign. If an abandoned sign remains in good condition and without holes or other evidence of disrepair or damage, the sign shall not be considered as abandoned for a period of 1 year.

(Ord. 898, passed 12-16-2014) Penalty, see § 151.999

§ 151.196 NONCONFORMING SIGNS.

Signs, including their structures, that existed on the date of this subchapter and which do not comply with the provisions of this subchapter, are considered nonconforming and shall be regulated as a nonconforming use under § 151.017.

(Ord. 898, passed 12-16-2014)

§ 151.197 SIGN STANDARDS.

Table 1: Sign Standards

Sign Type	***(A) Traditional Town Center***	***(B) Traditional Commercial Corridor***	***(C) Contemporary Commercial***	***(D) Major Recreation***	***(E) Office and Business Park***	***(F) Light and Heavy Industrial***
Wall						
Maximum area *	Up to 80 square feet or 10% of the wall area where the sign is to be	Up to 120 square feet or 10% of the wall area where the sign is to	Up to 120 square feet or 10% of the wall area where the sign is to	Up to 120 square feet or 10% of the wall area where the sign is to	5% of the wall area where the sign is to	5% of the wall area where the sign is to

	located, whichever is greater	be located, whichever is greater	be located, whichever is greater	be located, whichever is greater	be located	be located
Maximum height	May not be roof mounted or extend above the roof line of the structure	May not be roof mounted or extend above the roof line of the structure	May not be roof mounted or extend above the roof line of the structure	May not be roof mounted or extend above the roof line of the structure	May not be roof mounted or extend above the roof line of the structure	May not be roof mounted or extend above the roof line of the structure
Lighting (a)	E/I	E/I	E/I	E/I	E/I	E/I
Projecting		Not permitted	Not permitted	Not permitted	Not permitted	Not permitted
Maximum area	24 square feet per sign face			120 square feet per sign face, applies to signs intended to be viewed from public roadways		
Maximum height/ projection	No more than 60 inches from the building face, or 24 inches from the back of the curb, whichever is less					
Lighting (a)	E/I			E/I		

Freestanding						
Type	Not permitted	1 sign per street frontage, M or P	1 sign per street frontage, M or P	1 sign per facility or street frontage, M or P	1 sign per street frontage, M	1 sign per street frontage, M
Maximum area		Up to 125 square feet per sign face	Up to 125 square feet per sign face	Up to 125 square feet per sign face	125 square feet per sign face	125 square feet per sign face
Allowable height		30 feet from the grade at the proposed location	30 feet from the grade at the proposed location; may be varied through the sign adjustment process specified in the text	45 feet from the grade at the proposed location; may be varied by through the sign adjustment process specified in the text	12 feet from grade at the proposed location	12 feet from grade at the proposed location
Lighting (a)		E/I	E/I	E/I	E/I	E/I
Window						
Maximum coverage area	Up to 50% of available window area	Up to 50% of available window area	Up to 50% of available window area	Not permitted	Not permitted	Not permitted
Alpha, numeric monochrome and electronic message center signs (see § 151.189(A) and (B) for additional requirements)						
				Maximum of 1 sign per parcel; may use		

Maximum area	Not permitted	1, 32 square feet sign per parcel (32 square feet per side for double-faced sign)	1, 32 square feet sign per parcel (32 square feet per side for double-faced sign)	up to the permitted 32 square feet for freestanding or wall signs, and size may be varied by PUD approval (e.g., ValleyFair, Canterbury Park)	Not permitted	Not permitted
Wall height		Same as for other wall signs	Same as for other wall signs	Same as for other wall signs		
Freestanding height		Same as for other freestanding signs	Same as for other freestanding signs	Same as for other freestanding signs		
Maximum brightness		500 NITS from sunset to sunrise; 7500 NITS from sunrise to sunset	500 NITS from sunset to sunrise; 7500 NITS from sunrise to sunset	500 NITS from sunset to sunrise; 7500 NITS from sunrise to sunset		
Frequency of change		Once every 8 seconds	Once every 8 seconds	Once every 8 seconds		

(a) E = external, I = internal (which includes channel lit and neon), B = backlit illumination is not permitted

(b) M = monument, P = pole, O = temporary off-premise sign

(c) Single pole support only

* This is a major change from the current standard which ties sign area to linear feet

of building walls on which wall signs are permitted

(Ord. 898, passed 12-16-2014; Ord. 933, passed 6-21-2016)

§ 151.198 TEMPORARY SIGNS.

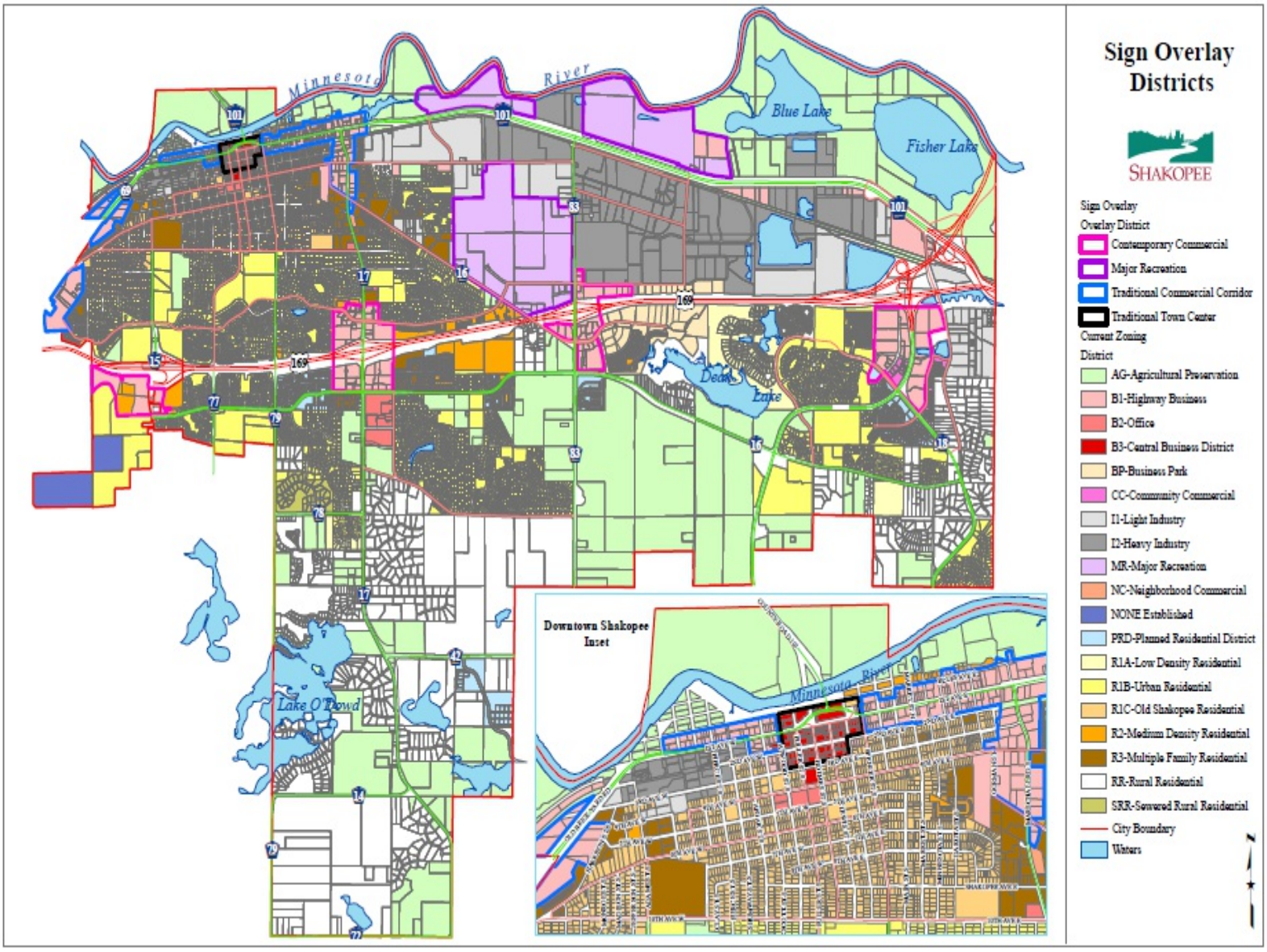
Table 2: Temporary Signs						
Sign Type	***(A) Traditional Town Center***	***(B) Traditional Commercial Corridor***	***(C) Contemporary Commercial***	***(D) Major Recreation***	***(E) Office and Business Park***	***(F) Light and Heavy Industrial***
Grand opening/special event						
Maximum area *	Up to 2 banners, 32 square foot per side	Up to 2 banners, 32 square foot per side	Up to 2 banners, 64 square foot per side	10% of the area of the wall on which the sign is to be located	Not permitted	Not permitted
Where displayed	Affixed to the building, or on the lot in a location that meets applicable setbacks (e.g., from roadways)	Affixed to the building, or on the lot in a location that meets applicable setbacks (e.g., from roadways)	May not be roof mounted or extended above the roof line of the structure	May not be roof mounted or extended above the roof line of the structure		
Duration	No more than 30 days per event	No more than 30 days per event	No more than 30 days per event	No more than 30 days per event		
Real estate						
Maximum area	32 square feet per	32 square feet per	32 square feet per	32 square feet per	32 square feet per	32 square feet per

	sign side	sign side	sign side	sign side	sign side	sign side
Where displayed	1 per street frontage	1 per street frontage	1 per street frontage	1 per street frontage	1 per street frontage	1 per street frontage
Duration	To be removed within 7 days of the sale or lease of the property	To be removed within 7 days of the sale or lease of the property	To be removed within 7 days of the sale or lease of the property	To be removed within 7 days of the sale or lease of the property	To be removed within 7 days of the sale or lease of the property	To be removed within 7 days of the sale or lease of the property
Ideological and non-commercial signs	Permitted without a permit fee in all zones					
Maximum area	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Where displayed	In a location that meets applicable setbacks (e.g. roads)	In a location that meets applicable setbacks (e.g. roads)	In a location that meets applicable setbacks (e.g. roads)	In a location that meets applicable setbacks (e.g. roads)	In a location that meets applicable setbacks (e.g. roads)	In a location that meets applicable setbacks (e.g. roads)
Duration	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Political campaign signs						
Maximum area	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	May not be displayed in public rights-of-way or on publicly owned	May not be displayed in public rights-of-way or on publicly owned	May not be displayed in public rights-of-way or on publicly owned	May not be displayed in public rights-of-way or on publicly owned	May not be displayed in public rights-of-way or on publicly owned	May not be displayed in public rights-of-way or on publicly owned

Where displayed	property; shall be placed at least 30 feet from any street corner, and should not obstruct the view of traffic or pedestrians	property; shall be placed at least 30 feet from any street corner, and should not obstruct the view of traffic or pedestrians	property; shall be placed at least 30 feet from any street corner, and should not obstruct the view of traffic or pedestrians	property; shall be placed at least 30 feet from any street corner, and should not obstruct the view of traffic or pedestrians	property; shall be placed at least 30 feet from any street corner, and should not obstruct the view of traffic or pedestrians	property; shall be placed at least 30 feet from any street corner, and should not obstruct the view of traffic or pedestrians
Duration	*From 46 days before to 10 days after an election;* with the consent of the property owner; may be displayed between a primary and general election	*From 46 days before to 10 days after an election;* with the consent of the property owner; may be displayed between a primary and general election	*From 46 days before to 10 days after an election;* with the consent of the property owner; may be displayed between a primary and general election	*From 46 days before to 10 days after an election;* with the consent of the property owner; may be displayed between a primary and general election	*From 46 days before to 10 days after an election;* with the consent of the property owner; may be displayed between a primary and general election	*From 46 days before to 10 days after an election;* with the consent of the property owner; may be displayed between a primary and general election

(Ord. 898, passed 12-16-2014)

§ 151.199 SIGN OVERLAY DISTRICTS.



Note: To view the Sign Overlay Districts Map in PDF, click HERE

(Ord. 898, passed 12-16-2014)

§ 151.200 EFFECTIVE DATE.

The subchapter be in effect from and after the date of its passage and publication.

(Ord. 898, passed 12-16-2014)

WIND ENERGY CONVERSION SYSTEMS (WECS)

§ 151.210 PURPOSE.

The purpose of this subchapter is to establish regulations for the installation and operation of wind energy conversion systems (WECS) within the city, not otherwise subject to siting and oversight by the state under the State Power Plant Siting Act, M.S. §§ 116C.51 through 116C.697, as they may be amended from time to time.

(2013 Code, § 11.71)

§ 151.211 DEFINITIONS.

The definitions in § 151.002 apply herein. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGREGATED PROJECT. A wind energy project that is developed and operated in a coordinated fashion but may have multiple entities separately owning 1 or more of the individual WECS within the larger project. Associated infrastructure, such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the ***AGGREGATED PROJECT***.

COMMERCIAL WECS. A WECS of 40 kilowatts or more in total generating capacity.

FALL ZONE. The area, defined by the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure. This area is and should be less than the total height of the tower.

FEEDER LINE. Any power line that carries electrical power from 1 or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid. In the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS.

METEOROLOGICAL TOWER. Towers that are erected primarily to measure wind speed and directions, plus other data relevant to siting a WECS. For purposes of this subchapter, the term ***METEOROLOGICAL TOWER*** does not mean towers and equipment used by airports, the State Department of Transportation, or other similar applications to monitor weather conditions.

NACELLE. The part of a WECS that contains the key components of the wind turbine, including the gearbox, yaw system, and the electrical generator.

NON-COMMERCIAL WECS. A WECS of less than 40 kilowatts (KW) in total generating capacity.

ROTOR DIAMETER. The diameter of the circle described by the moving rotor blades of a WECS.

SUBSTATIONS. 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. The highest point, above-ground level, reached by a rotor tip or any other part of the WECS.

TOWER. Vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

TOWER HEIGHT. The total height of the WECS exclusive of the rotor blades.

TRANSMISSION LINE. 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. An electrical generating facility comprised of 1 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.

(2013 Code, § 11.71)

§ 151.212 APPLICATION PROCESS, BUILDING PERMITS, FEES, AND INSPECTIONS.

(A) *Application*.

(1) Applications for approval to construct a WECS shall include the following information:

(a) The name(s) of the project applicant;

(b) The name(s) of the property owner;

(c) The legal description and address of the project;

(d) A description of the project including the number, type, name plat generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid;

(e) 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;

(f) An engineer's certification; and

(g) Documentation of land ownership or legal control of the property.

(2) The application for a commercial WECS shall also include:

(a) The latitude and longitude of individual wind turbines;

(b) A USGS topographical map, or map with similar date, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS;

(c) The location of wetlands, scenic, and natural areas within 1,320 feet of the proposed WECS;

(d) An acoustical analysis prepared by an acoustics engineer;

(e) A Federal Aviation Administration (FAA) permit application;

(f) The location of all known communication towers within 2 miles of the proposed WECS;

(g) A decommissioning plan; and

(h) A description of potential impacts on nearby WECS and wind resources on adjacent properties.

(B) *Process*. WECS applications that require a conditional use permit or variance(s) will be processed under the procedures for such approvals contained within this subchapter.

(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 division (C).

(2) (a) At the time of application, the applicant shall provide 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.

(b) Specifically, before issuance of a building permit, the following information shall be submitted by the applicant:

1. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration;

2. A report for a state-licensed professional engineer that demonstrates the WECS compliance with structural and electrical standards; and

3. Commercial WECS shall include a shadow flicker analysis study with the application submission.

(3) Only 1 tower shall exist at any 1 time on any 1 parcel of property zoned for, and used for, residential purposes. More than 1 tower may be allowed by conditional use permit so long as the installation complies with the other applicable provisions of this subchapter.

(4) Any city cost or testing or verification of compliance shall be borne by the applicant.

(D) *Fees*. The fee(s) to be paid in connection with WECS shall be as prescribed in the city's most recently adopted fee schedule.

(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 subchapter. 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 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.

(2013 Code, § 11.71)

§ 151.213 PERMITTED, CONDITIONALLY PERMITTED, AND PROHIBITED WIND ENERGY CONVERSION SYSTEMS (WECS).

(A) *Conditionally permitted WECS.*

(1) Noncommercial WECS shall be permitted in all zoning districts upon the issuance of a conditional use permit subject to the provisions of this subchapter and the provisions of the underlying zoning district in which the WECS is to be located.

(2) Commercial WECS are permitted in all zoning districts, except as noted in division (B) below, upon issuance of a conditional use permit and are subject to the provisions of this subchapter.

(B) *Annual review of conditional use permits*. All WECS conditional use permits shall be subject to an annual review by city staff. Information related to annual CUP reviews shall be provided to the city's Board of Adjustment and Appeals.

(C) *Prohibited WECS*. All WECS are prohibited in the environmental overlay districts, i.e., the Floodplain and Shoreland Overlay Districts, as well as conservation easements.

(2013 Code, § 11.71)

§ 151.214 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*.

(a) *Noncommercial WECS*. Rotor blades must maintain at least 12 feet of clearance between their lowest point and the ground.

(b) *Commercial WECS*. Rotor blades must maintain at least 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 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. Fencing for security purposes may also be required as a condition of CUP approval.

(B) *Standards*.

(1) *Total height of WECS towers*.

(a) Noncommercial WECS towers shall have a total height of no more than 60 feet.

(b) Commercial WECS towers shall have a total height of no more than 175 feet.

(c) WECS may be permitted that are roof-mounted, but if roof-mounted shall be limited to no more than 10 feet in height above the roof unless a determination is made in the conditional use permit that a different height is appropriate.

(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 secured by guy wires.

(3) *Setbacks*. The following setbacks shall be applied to WECS towers, but are not applicable to roof-mounted WECS that are not towers.

	Noncommercial WECS	***Commercial WECS***	***Meteorological Towers***
Neighboring dwellings	1.1 times the total height, plus 10 feet	1.25 times the total height	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height
Other existing WECS	NA	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 project	
Other rights-of-way	The lesser of 1.1 times the total height, plus 10 feet or the distance of the fall zone as certified by a professional engineer, plus 10 feet	The lesser of 1.1 times the total height, plus 10 feet or the distance of the fall zone as certified by a professional engineer, plus 10 feet	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height
Other structures	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height
Property lines	1.1 times the total height, plus 10 feet	1.1 times the total height, plus 10 feet	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the

			total height
Road rights-of-way	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height	The fall zone as certified by a professional engineer, plus 10 feet or 1.1 times the total height

(4) *Color and finish*.

(a) All wind turbines and towers that are part of a WECS shall be white, grey, or another non-reflective, neutral color;

(b) Blades may be black in order to facilitate deicing; and

(c) 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 name and/or logo may be placed on the nacelle of the WECS. No other signage 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*.

(a) Any WECS shall not produce vibrations through the ground that are perceptible by humans beyond the property on which it is located.

(b) Noncommercial WECS shall not be placed in a manner that causes shadow flicker onto neighboring property. Whether shadow flicker would be caused will be determined based on a shadow report submitted to the city for review.

(c) Applications for conditional use permits for both noncommercial and commercial WECS shall include data and/or analysis of both vibration and flicker impacts.

(11) *Discontinuation and decommissioning*. A WECS shall be considered a discontinued use after 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 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 shall 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.

(2013 Code, § 11.71)

§ 151.215 OTHER APPLICABLE STANDARDS.

(A) *Noise*. All WECS shall comply with the MPCA and city standards for noise.

(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 State Building Code as adopted by the state and the city.

(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 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 as determined by the city's public safety departments.

(2013 Code, § 11.71)

§ 151.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Every person violates a section, subdivision, paragraph, or provision of this chapter, when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or who knowingly makes or submits any false statement or document in connection with any application or procedure required by this chapter. Upon conviction thereof, such person shall be punished as for a misdemeanor.

(2013 Code, § 11.99)

(C) (1) Violation of the provisions of §§ 151.085 through 151.094, or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(2) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to, the following.

(a) In responding to a suspected violation of §§ 151.085 through 151.094, the Zoning Administrator and local government 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 community must act in good faith to enforce these official controls and to correct violations of §§ 151.085 through 151.094, to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(b) When a violation of §§ 151.085 through 151.094 is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document that nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional office along with the community's plan of action to correct the violation to the degree possible.

(c) The Zoning Administrator shall notify the suspected party of the requirements of §§ 151.085 through 151.094 and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:

1. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or

structure into compliance with the official controls; or

2. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(d) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of §§ 151.085 through 151.094 and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of §§ 151.085 through 151.094.

(2013 Code, § 11.56)

(D) In addition to any other remedy allowed by this code of ordinances or state or federal law, grading that is done in violation of § 151.110 be subject to the penalties and fees as approved by the City Council.

(2013 Code, § 11.60)

(Ord. 31, passed 10-25-1979; Ord. 337, passed 3-27-1992; Ord. 377, passed 7-7-1994; Ord. 384, passed 10-20-1994)

TABLE OF SPECIAL ORDINANCES

Table

TABLE I: ZONING MAP AMENDMENTS

Ord. No.	*Date*	*Description*
		Lots 1-10, Block 39, Lots 1-10,

38	4-15-1980	Block 175, vacated alley in Block 39, and vacated Webster Street between 2nd and 3rd Avenues, Original Shakopee Plat
39	4-15-1980	Lot 6 and east 20 feet of Lot 7, Block 34, Original Shakopee Plat
41	5-6-1980	Part of NE-1-4 and SE-1-4, 3-115-22
42	5- 6-1980	Part of NE-1-4 and SE-1-4, 3-115-22
44	7-1-1980	Part of Government Lot 5, 6-115-22, and part of Government Lots 4 and 5, 6-115-22
45	9-2-1980	Part of E-1-2 of SE-1-4, 2-115-22, and part of NE-1-4, of NE-1-4, 11-115-22
46	9-2-1980	Lot 2, Block 2, Cretex Industrial Park
74	9-1-1981	Two parcels in SE-1-4, 3-115-22; three parcels in SW-1-4, 2-115-22; Lot 1, Block 1, Case 1st Addition; Lots 1-3, Block 1 and Lot 1, Block 3, Cretex Industrial Park 1st Addition; and Lot 1, Block 1, Howe 1st Addition
110	11-16-1982	Part of E-1-2 of NW-1-4, 8-115-22
142	3-19-1984	Part of north 340.42 feet of E-1-2 of SW-1-4, 5-115-22
149	8-7-1984	Protective areas (shoreland)
151	9-25-1984	Five tracts in SE-1-4, 6-115-22; two tracts in SW-1-4, 5-115-22; one tract in SE-1-4, 6-115-22; one tract in SW-1-4, 5-115-22; five tracts in NW-1-4 of SW-1-4, 5-115-22; tract in SE-1-4 of SW-1-4 and SW-1-4 of SW-1-4, 5-115-22; tract in NE-1-4 of SW-1-4 and SE-1-4 of SW-1-4, 5-115-22; tract in SW-1-4, 5-115-22; two tracts in NE-1-4 of SW-1-4, 5-115-22; tract in SE-1-4 of SW-1-4, 5-115-22; and tract in SW-1-4

		of SW-1-4 and NW-1-4 of SW-1-4, 5-115-22
162	3-19-1985	Protected water areas removed
167	4-16-1985	Lot 2, Block 1, Halls First Addition
184	9-3-1985	Removes certain parcels from I-1 Light Industrial District and places same in R-1 Rural Residential District
191	3-4-1986	Part of S-1-2 of SE-1-4 of NE-1-4, 7-115-22
204	7-25-1986	Parcels in 5-115-22, 4-115-22, 9-115-22, 8-115-22, Koskovich Valley Park 1st Addition, DCCO First Addition, Prahmcoll 1st Addition, and Canterbury Park 2nd Addition
206	9-2-1986	Parcels in mandatory PUD
213	1-20-1986	Lots 1-10, Block 40, and Lots 1-10, Block 174
215	3-3-1986	Parcels in URD District
232	10-6-1987	Parcels in 7-115-22
234	10-6-1987	Parcels lying north of Bluff Street between Dakota and Prairie Streets and between Naumkeag Street and Marschall Road
243	5-3-1989	Lots 8 to 12, Block 3, Koeper's Addition, and area east of Lot 8 extending to west line of Lot 10, Block 175, Original Plat
252	9-20-1988	Lots 1-5, Block 3, Koeper's Addition and parcel immediately east of Lot 5
267	6-20-1989	N-1-2 of NW-1-4, 11-115-22, and part of SW-1-4, 2-115-22 from Light Industrial Zone to Heavy Industrial Zone
301	12-27-1990	Lots 1, 3, 4, and 5, Block 1, Eagle Creek Junction 1st Addition from R-4 to R-3
303	1-31-1991	Lots 2 and 6, Block 1, Eagle Creek Junction 1st Addition, and the parcel at 1796 Eagle Creek

		Boulevard from R-4 to R-3
313	8-15-1991	Lots 2, 3, and 4, Block 1, Eagle Creek Junction 2nd Addition, lying southeast, east, and northeast of a described line from R-4 to R-3
318	10-10-1991	A triangle in the W-1-2 of northeast 1-4,11-115-23, south of Highway 169, and part of the south 166.20 feet of Outlot C, Husman Addition from R-4 to B-1
331	5-21-1992	East 30 feet of vacated Polk Street from B-1 to R-2; Outlot A, Minnesota Valley 5th Addition from R-2 to R-2, and unplatted land southeast of Outlot A from R-2 to R-4
335	6-4-1992	Property south of Vierling Drive, west of County Road 16, north of Highway101 Bypass, and east of commercially zoned land from R-2 to R-3
336	7-23-1992	Lot 10, Block 25, Original Shakopee Plat from B-1 to B-3
339	8-6-1992	Lots 1-9, Block 25, Original Shakopee Plat from B-1 to B-3
347	12-3-1992	Three parcels in the north 1-2 of SW 1-4 6-115-22; Lot 4, Block 317, Wermerskirchen s Addition; Lot 2, Block 1, Clifton 1st Addition; and part of Minnesota Street and Dakota Street from R-4 and R-2 to R-3
353	3-25-1993	Southeast 1-4 northeast 1-4, north 21.15 feet of northeast 1-4 of southeast 1-4, and south 1-2 of northeast 1-4 of northeast 1-4, 18-115-22 from AG to R-4
354	4-15-1993	East 10 AC of northeast 1-4 of southeast 1-4 lying north of centerline of Vierling Drive, 7-115-22 from B-1 to R-2
		Part of SW 1-4, 7-115-22;from

371	3-3-1994	AG to R-2
379	7-7-1994	Lots 1-3, Cretex Industrial Park 1st Addition from B-1 to I-2
382	8-25-1994	Part of south 1-2 of northeast 1-4 and of north 1-2 of southeast 1-4,12-115-23 from AG to R-2
384	10-20-1994	Mapping formerly I-1 and I-2 areas to I-1 and I-2 under new ordinance
388	11-10-1995	Part of NW 1-4 of SE 1-4, 5-115-22 from RTD to I-1
389	11-24-1994	Mapping most of city under new ordinance
395	12-29-1994	Mapping area of city around Dean Lake under new ordinance
405	3-2-1995	Re-zoning a small part of SW 1-4; 7-115-22
407	3-11-1995	Making ordinance effective as to Valley Fair property
413	4-27-1995	Creating PUD Overlay Zone No. 1 on Valley Fair property; part of Government Lot 1, 33-116-22; part of east 1-2, 4-115-22; part of Government Lot 2, 3-115-22; Lot 3, 3-115-22; and part of north 1-2 SW 1-4, 3-115-22
415	5-11-1995	Creating PUD Overlay Zone No. 2 on west View 7th Addition
417	9-14-1995	Creating PUD Overlay Zone No. 3 on Canterbury Park property; part of northeast 1-4 southeast 1-4, 5-115-22; south 1-2 southeast 1-4, 5-115-22; SW 1-4 SW 1-4, 4-115-22; part of NW 1-4, 9-115-22; and part of east 1-2 northeast 1-4, 8-115-22
418	7-6-1995	Creating PUD Overlay Zone No. 4 on parts of Outlots D & E, Husman Addition
421	8-24-1995	Re-zoning land north of 5th Avenue, south of 2nd Avenue, east of Harrison Street, and west of

		Marschall Road from R-2 to R-1C and R-3
422	8-24-1995	Re-zoning part of NW 1-4 SW 1-4, 5-115-22 from R-3 to B-1
423	8-24-1995	Mapping area of city around Canterbury Park under new ordinance
424	8-24-1995	Deleting mandatory PUD Overlay Zone
428	11-2-1995	Creating PUD Overlay Zone No. 5 on Prairie Bend property; part of SW 1-4 SW 1-4 and NW 1-4 SW 1-4, 5-115-22; and part of east 5-8 of north 1-2 southeast 1-4, 6-115-22
431	11-2-1995	Re-zoning Prairie House 2nd Addition from B-1 to MR
433	12-14-1995	Creating PUD Overlay Zone No. 6 on St. Francis Medical Campus; southeast 1-4 northeast 1-4, part of northeast 1-4 southeast 1-4, and south 1-2 of northeast 1-4 northeast 1-4, 118-115-22
436	12-14-1995	Replacing site plan for PUD Overlay Zone No. 4
442	1-11-1996	Re-zoning SW 1-4 SW 1-4, 20-115-22 from RR to AG
443	1-11-1996	Re-zoning Prairie House 2nd Addition to PUD Overlay Zone No. 1
447	3-28-1996	Re-zoning part of SW 1-4 southeast 1-4, 7-115-22 and NW 1-4 of NW 1-4 northeast 1-4, 18-115-22 from AG to B-1
449	4-4-1996	Creating PUD Overlay Zone No. 8 on part of northeast 1-4 SW 1-4 5-115-22; part of southeast 1-4 SW 1-4 5-115-22; west 1-2 SW 1-4 5-115-22; and Outlot A, Prahmcoll 1st Addition
459	7-1-1996	Re-zoning SW 1-4 of NW 1-4 and the north 30 acres of west 1-2 of SW 1-4, of 17-115-22 from AG to

		R-1B
461	8-6-1996	Re-zoning south 1-2 of NW 1-4 of NW 1-4, 17-115-22 from AG to R-1B and R-2
464	10-1-1996	Re-zoning Outlot D, Prairie Estates 1st Addition from AG to R-1 B and B-1
465	12-12-1996	Re-zoning Outlots A, B, C, and D, Lots 1 and 2, Canterbury Park 2nd Addition, plus Lot 1, Block 1 Canterbury Park 4th Addition, plus east 1-2 of SW 1-4, 9-115-22 west from M-R to Planned Unit Development Overlay Zone No. 9
466	10-17-1996	Re-zoning south 1-2 of southeast 1-4 of southeast 1-4, 12-115-23 from R-1B to Planned Unit Development Overlay Zone No. 7
469	5-15-1997	Re-zoning southeast 1-4 of SW 1-4, except north 2 rods thereof and except south 72 feet to east 66 feet of north 105 feet thereof, 5-115-22 from R-1B to Planned Unit Development Overlay Zone No. 10
473	2-13-1997	Re-zoning south 1-2 of SW 1-4, 11-115-23, except portion platted Davies Addition and Davies 2nd Addition, and except that part of south 1-2 of SW 1-4, 11- 115N-23W, shown as Parcel 43A on State Department of Transportation. Right-of-way Plat No. 70-16 and SW 1-4 of southeast 1-4, 11-115N-23W, except that part shown as Parcel 49 on State Department of Transportation. Right-of-way Plat No. 70-15 from R-1B to Planned Unit Development Overlay Zone No. 11
476	2-13-1997	Re-zoning Lot 2, Block 1, Wiggins 1st Addition from R-1C to R-2
		Re-zoning Lots 1-4, Block 32,

477	2-27-1997	east Shakopee from B-1 to R-2
481	4-17-1997	Re-zoning Outlot A, south Parkview Addition from R-1B to R-2
483	5-6-1997	Re-zoning Outlot C, Prairie Estates 1st Addition from AG to B-1 and R-2
489	7-1-1997	Re-zoning
493	8-14-1997	Re-zoning land located north of 12th Avenue and East of Country Road 83
499	9-4-1997	Re-zoning land located south of Highway 169 and East of County Road 17 (Marschall Road)
503	10-16-1997	Re-zoning land located south of Highway 169, west of County Road 18, and north of County Road 16
507	1-1-1998	Re-zoning land located south of 17th Avenue Extended and west of County Road 17
508	12-4-1997	Re-zoning land located south of the West 3rd Avenue and County Road 69 Intersection
510	2-5-1998	Re-zoning land located north of Valley View Road and east of County Road 17
516	6-25-1998	Re-zoning land generally located southwest of Gorman Street and south of Municipal Services Building Site
524	10-22-1998	Re-zoning land located south of Crossroads Center and north of Highway 169
530	10-29-1998	Re-zoning the north one-half of Block 169, Shakopee City Plat
534	12-31-1998	Amends Ord. 493 by replacing legal description
535	12-31-1998	Re-zoning land generally located south of U.S. 169, east of Marschall Road, north of 17th Avenue, Extended, and

		immediately east of Longmeadow Addition
532	1-28-1999	Re-zoning land located north of County Road 16 and west of Canterbury Park
536	1-28-1199	Re-zoning land located south of 4th Avenue and west of CSAH 83
540	2-25-1999	Prohibiting approval of new residential plats, planned unit developments, and conditional use permits
555	7-15-1999	Re-zoning land generally located north of US 169, and east of CSAH 83
556	9-30-1999	Re-zoning land generally located north of CSAH 42 and east of CSAH 17 (Marschall Road)
559	11-11-1999	Re-zoning land generally located north and south of County Road 16, east of County Road 83, and west of Dean Lake
687	2-1-2000	Re-zoning land generally located north of Sixth Avenue and east of CSAH69
565	2-24-2000	Re-zoning land generally located at the southwest corner of County Road 17 and Highway 169
569	8-31-2000	Re-zoning land generally located north of 5th Avenue and west of Adams Street
573	8-10-2000	Re-zoning land generally located north of Valley View Road and east of County Road 17
577	9-14-2000	Re-zoning land generally located south of Highway 169 and west of 17th Avenue
584	11-6-2000	Not published - superceded by Ord. 611
588	12-28-2001	Re-zoning land generally located south of 17th Avenue and west of CSAH 17-Marschall Road
		Re-zoning land generally located north of CSAH 16 and west of

592	3-1-2001	Roundhouse from Highway Business (B-1) to Multiple-Family Residential (R-3)
593	3-1-2001	Re-zoning land generally located north of Bluff Avenue and west of CSAH Marschall Road
595	4-26-2001	Zoning land generally located at 2011 10th Avenue west (south of CSAH 69, north of 10th Avenue) to Medium-Density Residential (R-2)
596	5-3-2001	Re-zoning land generally located south of Highway 169, north of Dublin Lane, and east of Brittany Court from Agricultural Preservation (AG) to Planned Residential (PRD)
602	7-26-2001	Re-zoning land generally located north of Valley View Road, east of Pheasant Run, and west of County Road 83 from Agricultural Preservation (AG) to Urban Residential (R-1B)
604	8-2-2001	Re-zoning land generally located north of Valley View Road, and east of County Road 17 from Agricultural Preservation (AG) to Urban Residential (R-1B)
611	9-27-2001	Re-zoning land generally located north of 17th Avenue extended and east of Dublin Square and Sunpath Elementary from Agricultural Preservation (AG) to Urban Residential (R-1B)
612	10-11-2001	Re-zoning property from Major Recreation Planned Unit Development (MR-PUD) to Light Industrial (I-1)
619	2-28-2002	Re-zoning land generally located south of 17 Avenue, north of Valley View Road, and east of Sunpath Elementary from Agricultural Preservation (AG) to

		Urban Residential (R-1B)
622	3-28-2002	Re-zoning land generally located north of 17th Avenue and south of STH 169 from Agricultural Preservation (AG) to Planned Residential (PRD)
624	4-11-2002	Re-zoning land generally located south of Newport Avenue, west of Evergreen Lane, and east of County Road 79 from Agricultural Preservation (AG) to Urban Residential (R-1B)
632	6-27-2002	Re-zoning land generally located north of 17th Avenue and east of Dublin Square from Agricultural Preservation (AG) to Urban Residential (R-1B)
635	8-15-2002	Re-zoning land generally located east of CSAH 79, west of CSAH 17, and north of CSAH 78 from Agricultural Preservation (AG) to Urban Residential (R-B)
636	8-15-2002	Re-zoning land generally located south and west of CSAH 18 from Light industrial (I-1) to Planned Residential (PRD)
637	8-15-2002	Re-zoning land generally located south of Highway 169 and north and east of CSAH 18 from Light Industrial (I-1) to Highway Business (B-1) and Community Commercial (CC)
640	9-26-2002	Re-zoning land generally located south of 17th Avenue and east of Independence Drive from Agricultural Preservation (AG) to Urban Residential (R-1B)
645	11-14-2002	Re-zoning land generally located south of 3rd Avenue and east of Adams Street from Old Shakopee Residential (R-1C) to Light Industry (I-1)
		Re-zoning land generally located north of 4th Avenue, east of Fuller

650	12-26-2002	Street, and west of Holmes Street from Old Shakopee Residential (R-1C) to Central Business (B-3)
655	1-30-2003	Re-zoning Lots 2, 3, 4, Block 9, Keepers addition from Old Shakopee Residential (R1-C) to Medium-Density Residential (R2)
654	2-27-2003	Re-zoning land generally located east of CSAH 18 and south of CSAH 16 from Rural Residential (RR) to Urban Residential (R-1B)
658	3-27-2003	Re-zoning land generally located north of CSAH 16 and south of the southbridge Development from Light Industrial (I-1) and Agriculture Preservation (AG) to Urban Residential (R-1B)
661	3-27-2003	Re-zoning land generally located east of Beckrich Park Estates, west of CSAH 17, and north of CSAH 78 from Agricultural Preservation (AG) to Rural Residential (RR) and Urban Residential (R-1B)
664	5-15-2003	Re-zoning land generally located east of the intersection of 17th Avenue and Independence Drive from Agricultural Preservation (AG) to Planned Residential District (PRD)
667	5-29-2003	Re-zoning certain property from Agricultural Preservation (AG) to Planned Residential District (PRD)
668	5-29-2003	Re-zoning land generally located east of Marschall Road and south of Eagle Creek Boulevard from Multiple-Family Residential (R-3) to Neighborhood Commercial (NC)
669	6-12-2003	Re-zoning land generally located south of Highway 169, east of King Avenue, and north of 18th

		Avenue from Agricultural Preservation (AG) to Medium-Density Residential (R2)
671	6-26-2003	Re-zoning land generally located north of Valley View Road and west of CSAH 83 from Agricultural Preservation (AG) to Urban Residential (R-1B)
673	6-26-2003	Re-zoning land generally located south of Valley View Road, east of Pheasant Run, and west of Williams Street from Rural Residential (RR) to Urban Residential (R-1B)
674	6-26-2003	Re-zoning land generally located north of Eagle Creek Boulevard, east of Marschall Road, and west of Roundhouse Street from Highway Business (B-1) to Medium- Density Residential (R2)
675	7-10-2003	Re-zoning land generally located north of CSAH 16, east of Pike Lake Road, and west of Foothill Trail from Agricultural Preservation (AG) Zone Light Industrial (I-1) to Urban Residential (R-1B)
682	10-16-2003	Re-zoning land generally located north of Valley View Road, east of Mathias Road, and west of Pheasant Run Street from Agricultural Preservation (AG) to Urban Residential (R-1B)
683	10-30-2003	Re-zoning land generally located north of Valley View Road, east of Mathias Road, and south of Wilhelm Court from Agricultural Preservation (AG) to Urban Residential (R-1B)
684	10-30-2003	Re-zoning land generally located north of Second Avenue west, east of Scott Street, and west of Atwood Street from Highway

		Business (B-1) to Central Business (B-3)
685	10-30-2003	Re-zoning land generally located south of Seventeenth Avenue, east of Sarazin Street, and west of Independence Drive from Agricultural Preservation (AG) to Urban Residential (R-1B)
686	11-13-2003	Re-zoning land generally located north of Valley View Road, east of Mathias Road, and south of Wilhelm Court from Agricultural Preservation (AG) to Urban Residential (R- 1B)
691	11-27-2003	Re-zoning land generally located south of Trunk Highway 169, north of CSAH 16, east of CSAH 83, and west of Dean Lake from Business Park (BP) to Medium-Density Residential (R-2)
695	2-5-2004	Re-zoning land generally located north of Second Avenue west, east of Scott Street, and west of Atwood Street from Highway Business (B-1) to Central Business (B-3)
705	5-27-2004	Re-zoning land generally, located north of Carriage Circle, and east of Barrington Drive from Rural Residential (RR) to Urban Residential (R-1B)
707	6-17-2004	Re-zoning land generally located south of STH 169 and west of CSAH 79 to Urban Residential (R-1B)
711	8-26-2004	Re-zoning land generally located south of 4th Avenue and east of Roundhouse Street from Multiple-Family Residential (R-3) to Medium-Density Residential (R-2)
712	8-26-2004	Re-zoning land generally located north of Valley View Road and west of County Road 83 from

		Agricultural Preservation (AG) to Urban Residential (R-1B)
717	12-30-2004	Re-zoning land generally located south of STH 169 and east of CSAH 15 to Urban Residential (R-1B)
722	1-27-2005	Re-zoning land generally located south of Highway 169 and west of Townline Road to Urban Residential (R-1B)
723	3-17-2005	Re-zoning land generally located south of County Road 78 and west of County Road 17 from Rural Residential (RR) to Urban Residential (R-1B)
727	4-14-2005	Re-zoning land located north of County Road 16 and west of Riverside Fields from Agricultural Preservation (AG) Zone Light Industrial (I-1) Zone to Urban Residential (R-1B) Zone
729	4-28-2005	Re-zoning land located north of County Road 16 and west of County Road 18 from Rural Residential (RR) to Urban Residential (R-1B) Zone
731	6-2-2005	Re-zoning land located north of County Road 16, south of the southbridge Development, and west of Pike Lake Road from Agricultural Preservation (AG) Zone to Urban Residential (R-1B) Zone
732	7-14-2005	Zoning land located south of Highway 169 and north of 17th Avenue extended to Medium-Density Residential (R2) and Highway Business (Bl) Zone
735	7-28-2005	Zoning land generally located north of CSAH 16 and east of Pike Lake Road extended from Agricultural Preservation (AG) and Light Industrial (I-1) to Urban

		Residential (R-1B) Zone
739	11-10-2005	Re-zoning property from Agricultural Preservation (AG) Zone to Urban Residential (R-1B) Zone
745	2-23-2006	Re-zoning property from Rural Residential (RR) Zone to Urban Residential (R-1B) Zone
746	2-2-2006	Re-zoning land located north of CSAH 16 and west of Glacier Estates from Rural Residential (RR) Zone to Urban Residential (R-1B) Zone
751	3-30-2006	Re-zoning land located southeast of Lake O'Dowd and east of Vista Ridge Lane from Agricultural Preservation (AG) Zone to Rural Residential (RR) Zone
755	4-27-2006	Re-zone property from Agricultural Preservation (AG) Zone to Low-Density Residential (R-1A) and Urban Residential (R-1B) Zone
757	6-15-2006	Re-zoning land located west of CSAH 17-Marschall Road and south of CSAH 78 from Agricultural Preservation (AG) Zone to Low-Density Residential (R-1A) Zone
758	5-11-2006	Re-zoning land located south of Highway 169, east of Brittany Village 5th Addition, and west of Kellarney Hills Subdivision from Agricultural Preservation (AG) Zone to Medium-Density (R-2) Zone and Urban Residential (R-1B) Zone
799	7-3-2008	Re-zone property to Urban Residential (R-1B), Medium-Density Residential (R2), and Highway Business (B1) Zone
		Re-zoning land located west of CSAH 17-Marschall Road and south of CSAH 78 from

765	7-6-2006	Agricultural Preservation (AG) Zone to Low-Density Residential (R-1A) Zone
784	7-26-2007	Re-zoning land in Beckrich Park Estates from Rural Residential (RR) to Sewered Rural Residential (SRR)
814	2-26-2009	Realigning a zoning boundary on property north of 17 Avenue and west of Marystown Road (CSAH 15)
817	4-30-2009	Re-zoning property from Multiple-Family Residential (R3) Zone to Office (B2) Zone
818	4-30-2009	Re-zone property from Major Recreation (MR) Zone to Heavy Industry (I-2) Zone
857	8-23-2012	Re-zoning property from Agricultural Preservation (AG) to Urban Residential (R-1B)
835	9-2-2010	Re-zone property from Highway Business (B1) Zone to Light Industry (I-1) Zone
856	9-6-2012	Reconfiguration of zoning boundary between Urban Residential (R-1B) and Low-Density Residential (R-1A) to correspond within the property lines created with the platting of Valley Creek Crossing Second Addition
858	11-29-2012	Re-zoning property from Business Park (BP) to Highway Business (B1)
868	5-7-2013	Amending the zoning map by re-zoning land to Heavy Industrial (I-2) from Highway Business B-1
875	10-1-2013	Approving a request to re- zone property from Light Industrial (I-1) Zone to Highway Business (B-1) Zone
		Rezoning land located at 2544 Lakeview Drive from Rural

921	10-20-2015	Residential (RR) Zone to Low Density Residential (R1A) Zone
926	2-2-2016	Rezoning Outlot A, Southbridge Crossings East 3rd Addition from Highway Business (B-1) Zone to High Density Residential (R-4) Zone
929	2-16-2016	Rezoning property at 2525 Jennifer Lane from Agricultural Preservation (AG) Zone to Urban Residential (R-1B) Zone
930	3-15-2016	Rezoning properties adjacent to Hilldale Drive East from Rural Residential (RR) to Sewered Rural Residential (SRR)
931	3-15-2016	Rezoning Outlot I, Canterbury Park Sixth Addition from Major Recreation (MR) Zone to Light Industry (I-1) Zone
936	6-21-2016	Rezoning property located at the southeast quadrant of the intersection of Vierling Drive West and Adams Street South from Urban Residential (R-1B) to Highway Business (B- 1) and Multiple-Family Residential (R-3)

TABLE II: ANNEXATIONS

Ord. No.	***Date***	***Description***
100	9-12-1950	Tracts of land in 31-116-22, 5-115-22, and 6-115-22
171	10-8-1957	A tract of land in the NE-1-4 of NE-1-4, 11-115-23, and a tract in Government Lots 7 and 9 and the SE-1-4 of the SE-1-4, 2-115-23
178	8-12-1958	The part of NE-1-4 of NE-1-4, 11-115-23, included within the

		Plat of Notermann's Addition
202	3-10-1962	The tract of land excepted from the re-plat of Notermann's Addition annexed by Ord. 178
230	6-8-1965	NE-1-4 of SE-1-4 and SE-1-4 of NE-1-4, 11-115-23
231	6-8-1965	Part of W-1-2 of NE-1-4, 11-115-23
234	10-13-1965	Part of NE-1-4 of NE-1-4, 11-115-23, bounded by the Hussman's Addition on the north and east; the Notermann's Addition on the south; and on the west by territory annexed by Ord. 231
244	2-8-1966	Tracts of land in Government Lots 5 and 6, 6-115-22
273	10-26-1967	That part of Eagle Creek Township described as the east 5-8th of the N-1-2 of the SE-1-4, 6-115-22
335	12-14-1971	A tract of land in the SE-1-4 of the SE-1-4, 11-115-23, and a tract in the NW-1-4 of SW-1-4, 12-115-23
371	9-9-1975	A tract of land in the E-1-2 of the NW-1-4, 12-115-23
372	9-9-1975	A tract in the NW-1-4 of SE-1-4; a tract in the NE-1-4 of SW-1-4; and a tract in the NW-1-4 of SW-1-4,11-114-23
247	8-16-1988	Parcel in SE-1-4 of NE-1-4, 12-115-23
439	11-30-1995	Remainder of southeast 1-4 NW 1-4, 12-115-23
576	8-24-2000	That part of the east half of the northwest quarter of Section 11, Township 115 North, Range 23 west lying northerly of the north right- of-way line of former T.H. 300 (now 10th Avenue west) and southerly of the south right of way

		line of Scott County Road 69, approximately four acres
652	1-30-2003	Tracts of land in Section 13, Township 115 north, Range 23 west and Section 12, Township 115 north, Range 23 west
657	3-20-2003	Certain property located at the southeast quadrant of STH 169 and CSAH 15- Marystown Road
679	8-28-2003	Certain property located at the southwest quarter of the northwest quarter of Section 13, Township 115, Range 23, the county, together with that part of the north half of the southeast quarter of the northeast quarter of said Section 13
706	6-3-2004	That part of southwest quarter of the northeast quarter of Section 13, Township 115, Range 23 and of the north half of southeast quarter of northeast quarter of said Section 13, together with south half of southeast quarter of northeast quarter of said Section 13; together with that part of northwest quarter of southeast quarter of said Section 13; excepting a parcel previously conveyed in Doc. No. 363111
713	8-26-2004	That part of southwest quarter of northwest quarter of Section 13, Township 115, Range 23
734	7-28-2005	The east 12 feet of the south seven rods (115.5 feet) of the northwest quarter of the northwest quarter of Section 13, Township 115 north, Range 23 west, the county, and that part of the southwest quarter of the northwest quarter of Section 13, Township 115 North, Range 23 west, the county
		Lot 1, B1ock 1, Theis Highlands 1st Addition; Outlot A, Theis

761	6-29-2006	Highlands 1st Addition; all that part of the east half of the northeast quarter of Section 14, Township 115, Range 23; all that part of the west half of the northeast quarter of Section 14, Township 115, Range 23; all that part of the east half of the northeast quarter of Section 14, Township 115, Range 23; the south half of the southwest quarter of Section 14, Township 115, Range 23; the northwest quarter of the southeast quarter of Section 14, Township 115, Range 23; and a parcel in the southeast corner of the northeast quarter of the southwest quarter of Section 14, Township 115, Range 23

TABLE III: LAND CONVEYANCES

Ord. No.	*Date*	*Description*
253	6-28-1966	Authorizing the conveyance of that tract designated as "Park" on the Plat of Southview Addition (2013 Code, § 25.12)
290	12-17-1968	Authorizing the conveyance of a tract of land to the County Historical Society, Inc. (2013 Code, § 25.12)
313	8-25-1970	Authorizing the conveyance of certain lands to the Metropolitan Sewer Board (2013 Code, § 25.12)
316	1-26-1971	Authorizing the conveyance of a part of the SE-1-4 of NE-1-4, Section 6-115-22, to Viking Steel Products, Inc. (2013 Code, § 25.12)
		Authorizing the conveyance of

351	3-27-1973	certain lands known as Riverside Park to the state (2013 Code, § 25.12)
352	3-13-1973	Authorizing the conveyance of certain lands to the county for use of the County Library Board (2013 Code, § 25.12)
153	12-11-1984	Amending Ord. 290 (2013 Code, § 25.12)

TABLE IV: NUMBERING LOTS, HOUSING, AND BUILDINGS; STREET NAMINGS

Ord. No.	***Date***	***Description***
29	6-14-1927	Prescribing the numbering of lots, houses, and buildings (2013 Code, §25.13)
184	5-12-1959	Changing the names and designations of certain streets (2013 Code, §25.13)
249	4-26-1966	Renaming that part of Old Highway No. 169 south of Third Street and the extension thereof to Tenth Street as Harrison Street (2013 Code, §25.13)
295	1-14-1969	Renaming County Road 17 to Gorman Street (2013 Code, §25.13)
392	3-22-1977	Naming streets in Hauer's Addition to Hauer Trail and Jasper Road, County Road No. 16 as Eagle Creek Boulevard, and County Road No. 17 as Marschall Road (2013 Code, §25.13)
3	4-11-1978	Renaming Old County Road No. 21 as McKenna Road (2013 Code, §25.13)
228	8-181987	Renaming 13th Avenue as Vierling Drive (2013 Code, §25.13)

280	12-5-1989	Renaming a portion of Heritage Drive as Sapphire Lane (2013 Code, §25.13)
289	5-15-1990	Renaming Lakeview Drive as Stonebrooke Drive (2013 Code, §25.13)
316	8-29-1991	Renaming a portion of Roundhouse Circle as Sarazin Street (2013 Code, §25.13)
378	7-7-1994	Renaming a portion of Indigo Lane to Mound Street (2013 Code, §25.13)
386	9-20-1994	Renaming a portion of Vierling Drive to 13th Avenue (2013 Code, §25.13)
399	2-16-1995	Renaming Homestead Way to Homestead Street (2013 Code, §25.13)
425	8-15-1995	Renaming Homestead Way to Homestead Street, Wagon Wheel Circle, and Homestead Court (2013 Code, §25.13)
426	9-5-1995	Renaming Whitney Avenue to Whitney Street (2013 Code, §25.13)
432	11-21-1995	Renaming Koeper Avenue to Fuller Street (2013 Code, §25.13)
553	7-15-1999	Renaming of Carlise Curve to Carlisle Curve within Southbridge 1st Addition
574	8-10-2000	Renaming Berksshire Circle to Berkshire Circle (2013 Code, §25.13)
575	8-24-2000	Renaming portion of street known as Park Place as it runs east and west from Valley Park Drive to Broadband Boulevard (2013 Code, §25.13)
690	12-4-2003	Renaming Viking Steel Drive between CSAH 101 and Fourth Avenue to Sarazin Street (2013 Code, §25.13)
		Renaming Cambridge Court to

754	4-27-2006	Langston Court in Stonebrooke 4th Addition (2013 Code, §25.13)
783	6-28-2007	Renaming Koeper Avenue to Fuller Street and Townline Avenue to Spencer Street (2013 Code, §25.13)
867	4-11-2013	Approving the naming of Scott County Road 21 from County State Aid Highway 42 to County State Aid Highway 17

TABLE V: STREET AND ALLEY VACATIONS

Ord. No.	*Date*	*Description*
50	10-9-1894	Vacating certain streets, alleys, and levees in the Plat of East Shakopee (2013 Code, § 25.11)
246	4-26-1966	Vacating an alley on certain public streets (2013 Code, § 25.11)
264	2-28-1967	Vacating an alley in Block 9, Koeper's Addition and a part of Jefferson Street (2013 Code, § 25.11)
271	11-14-1967	Vacating a part of Jackson Street (2013 Code, § 25.11)
274	11-14-1967	Amending Ord. 246 (2013 Code, § 25.11)
282	7-8-1968	Vacating all the part of alley abutting and north of Lot 4, Block 3, Jasper and Smith Addition (2013 Code, § 25.11)
283	7-9-1968	Vacating certain portions of Cass Street and Clay Street, all of alley in Block 41, between Lots 1 and 10 of Block 42, and south half of alley abutting Lot 2, Block 42 (2013 Code, § 25.11)

302	8-12-1969	Vacating a portion of alley in Block 31, East Shakopee (2013 Code, § 25.11)
345	10-10-1972	Vacating a portion of Shawmut Street (2013 Code, § 25.11)
347	12-12-1972	Amending Ord. 246 (2013 Code, § 25.11)
359	1-8-1974	Vacating a part of Cavanaugh Drive and other streets, drives, and alleys in a part of SE-1-4 of NE-1-4, Section 6-115-22 (2013 Code, § 25.11)

TABLE VI: SEWER DISTRICTS AND SEWER CONNECTION EASEMENTS

Ord. No.	*Date*	*Description*
8	5-10-1921	Establishing and creating Sewer District No. 9 and provides for construction of sewerage system (2013 Code, §25.09)
16	8-2-1922	Creating Sewer District No. 10 (2013 Code, §25.09)
26	7-13-1926	Creating Sewer District No. 11 (2013 Code, §25.09)
32	9-27-1927	Creating Sewer District No. 12 (2013 Code, §25.09)
33	10-18-1927	Creating Sewer District No. 13 (2013 Code, §25.09)
34	10-18-1927	Creating Sewer District No. 14 (2013 Code, §25.09)
259	10-11-1966	Granting a 20-foot easement to Gerrico, Inc. for the purpose of connecting to public sewerage system (2013 Code, §25.10)
255	3-12-1968	Creating Sewer District No. 66-1 (2013 Code, §25.09)
256	3-12-1968	Creating Sewer District No. 66-2

		(2013 Code, §25.09)
284	9-10-1968	Creating Sewer District No. 20 (SW-68-5) (2013 Code, §25.09)
303	8-12-1969	Granting a 20-foot easement to Burmahi, Inc. for the purpose of constructing and maintaining a private sewer outlet (2013 Code, §25.10)

TABLE VII: AUTHORIZATIONS AND FRANCHISES

Ord. No.	*Date*	*Description*
64	5-13-1941	Grant of authority to railroad to Chicago, St. Paul, Minneapolis and Omaha Co. (2013 Code, §25.01)
73	8-11-1942	Grant of authority to railroad to Chicago, St. Paul, Minneapolis and Omaha Co. (2013 Code, §25.01)
217	5-12-1964	Grant of authority to railroad to Chicago and Northwestern Railway Co. (2013 Code, §25.01)
222	3-21-1965	Granting a gas franchise to Minnesota Valley Natural Gas Company (2013 Code, §25.08)
245	3-8-1966	Authorizing joint use of pole contract between the city and Northern States Power Company (2013 Code, §25.02)
337	3-17-1972	Granting an electric franchise to Northern States Power Company (2013 Code, §25.07)
100	9-7-1982	Granting a cable franchise to Zyistra-United Cable Television Company (2013 Code, §25.06)

157	12-18-1984	Granting a gas franchise to Minnegasco, Inc. (2013 Code, §25.08)
166	4-16-1985	Amending Ord. 100 (2013 Code, §25.06)
194	4-18-1986	Amending Ord. 100 (2013 Code, §25.06)
242	3-8-1988	Amending Ord. 100 (2013 Code, §25.06)
291	8-7-1990	Granting a gas franchise to Western Utilities, Inc. (2013 Code, §25.08)
308	3-15-1991	Amending Ord. 100 (2013 Code, §25.06)
344	12-10-1992	Amending Ord. 100 (2013 Code, §25.06)
453	8-22-1996	Amending Ord. 100 (2013 Code, §25.06)
605	8-16-2001	Granting an electric franchise to Minnesota Valley Electric Cooperative (2013 Code, §25.07)
607	8-16-2001	Granting an electric franchise to Northern States Power Company (2013 Code, §25.07)
641	9-26-2002	Amending Ord. 100 (2013 Code, §25.06)
709	9-26-2002	Amending Ord. 100 (2013 Code, §25.06)
939	8-3-2016	Granting a cable franchise to CenturyLink
948	11-1-2016	Granting a gas franchise to Northern States Power Company

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86B.205	151.005
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103G.005, subd. 15	151.066
103G.005, subd. 19	151.002
103G.222 - 103G.2375	54.03
116C.51 - 116C.697	151.210
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117	4-28-1983	151.043
118	6-30-1983	114.05
120	7-28-1983	10.05
121	8-4-1983	30.20 - 30.23, 34.04
124	8-4-1983	114.09, 114.12, 114.17, 114.21
126	8-4-1983	70.03
127	8-4-1983	71.18; Ch. 74, Schd. I
128	8-4-1983	130.03
129	8-11-1983	111.03
132	9-22-1983	151.105 - 151.125, 151.040 - 151.043
134	10-6-1983	34.05
137	10-27-1983	90.06
138	11-24-1983	151.045, 151.046
139	12-15-1983	30.20 - 30.23
140	12-29-1983	71.10
141	1-26-1984	70.99, 72.99
142	3-19-1984	TSO Table I
145	5-24-1984	130.45, 130.99
147	6-14-1984	110.025 - 110.043
148	6-28-1984	31.05
149	8-7-1984	TSO Table I

151	9-25-1984	TSO Table I
150	10-4-1984	151.040
153	12-11-1984	TSO Table III
157	12-18-1984	TSO Table VII
154	12-27-1984	114.15
158	1-31-1985	151.002, 151.040, 151.046, 151.105 - 151.125, 151.040 - 151.043, 151.170 - 151.173
159	2-28-1985	151.002, 151.034 - 151.036, 151.038, 151.140 - 151.143
160	3-14-1985	114.02
162	3-19-1985	TSO Table I
163	3-28-1985	151.003
166	4-16-1985	TSO Table VII
167	4-16-1985	TSO Table I
170	6-27-1985	90.07
174	6-27-1985	71.16
171	7-4-1985	71.18; Ch. 74, Schd. I
172	7-16-1985	130.46
176	8-8-1985	53.08
177	8-22-1985	10.05
179	8-22-1985	114.02, 114.09, 114.12, 114.15
182	8-29-1985	130.36, 130.66
184	9-3-1985	TSO Table I
185	12-25-1985	151.140 - 151.143
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186	1-30-1986	151.045
187	1-30-1986	72.01 - 72.12
215	3-3-1986	TSO Table I
191	3-4-1986	TSO Table I
189	3-13-1986	130.66
194	4-18-1986	TSO Table VII
193	5-29-1986	114.09
195	6-12-1986	114.02, 114.09
202	7-1-1986	91.03
199	7-10-1986	110.010, 110.025 - 110.043
203	7-10-1986	151.038, 151.045, 151.046

201	7-17-1986	130.46
198	7-24-1986	114.01, 114.08, 114.09, 114.11, 114.12, 114.14, 114.15, 114.18
204	7-25-1986	TSO Table I
204	7-31-1986	151.004, 151.044
206	9-2-1986	TSO Table I
206	9-11-1986	151.002
207	10-16-1986	130.36
212	1-15-1987	110.013
215	3-12-1987	151.004
216	4-23-1987	110.013
214	5-14-1987	110.130 - 110.042
217	5-28-1987	71.18; Ch. 74, Schd. I
221	6-30-1987	111.03
225	7-27-1987	114.01
222	7-30-1987	32.19
223	8-13-1987	130.36
228	8-18-1987	TSO Table IV
224	8-27-1987	10.23
226	8-27-1987	114.02, 114.08, 114.12
229	8-27-1987	114.19
225	8-28-1987	111.06
232	10-6-1987	TSO Table I
234	10-6-1987	TSO Table I
230	10-22-1987	115.30 - 115.40
237	11-26-1987	114.15
238	12-24-1987	114.02
239	12-24-1987	114.16
240	2-26-1988	53.08
242	3-8-1988	TSO Table VII
244	6-17-1988	114.20
246	6-17-1988	151.002, 151.007, 151.009, 151.011 - 151.015, 151.038, 151.040, 151.043, 151.046, 151.105 - 151.125, 151.140 - 151.143
247	8-16-1988	TSO Table II
251	8-26-1988	151.008
252	9-20-1988	TSO Table I

253	10-14-1988	151.007, 151.105 - 151.125, 151.040 - 151.043
254	10-14-1988	10.05
255	10-14-1988	31.02
256	10-14-1988	114.14, 114.15, 114.19
259	11-11-1988	151.105 - 151.125, 151.040 - 151.043
261	1-31-1989	111.13
263	4-28-1989	90.04
243	5-3-1989	TSO Table I
264	5-26-1989	151.002, 151.030, 151.031, 151.034 - 151.036, 151.038, 151.040, 151.043 - 151.046, 151.143, 151.170 - 151.173
267	6-20-1989	TSO Table I
265	6-23-1989	130.09
268	7-21-1989	34.04
269	8-11-1989	110.013
271	8-25-1989	114.02
272	8-25-1989	151.105 - 151.125, 151.040 - 151.043
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277	11-21-1989	114.12
276	12-1-1989	111.06
277	12-1-1989	114.15
278	12-1-1989	70.01
279	12-1-1989	151.030, 151.040, 151.043, 151.045, 151.046, 151.140 - 151.143, 151.170 - 151.173
280	12-5-1989	TSO Table IV
284	1-1-1990	32.18
274	1-2-1990	31.04
282	1-5-1990	151.007
281	2-1-1990	71.18; Ch. 74, Schd. I
288	2-16-1990	151.030
289	5-15-1990	TSO Table IV
290	6-5-1990	32.23

291	8-7-1990	TSO Table VII
283	8-17-1990	110.013
292	9-7-1990	151.040
293	10-19-1990	31.01
294	10-19-1990	32.15
296	10-19-1990	114.19
298	10-26-1990	130.03
297	11-30-1990	130.66
301	12-27-1990	TSO Table I
303	1-31-1991	TSO Table I
305	2-6-1991	32.23
307	3-1-1991	114.15
308	3-15-1991	TSO Table VII
309	5-24-1991	111.11, 111.12
311	6-14-1991	32.23
314	7-25-1991	130.36
313	8-15-1991	TSO Table I
316	8-29-1991	TSO Table IV
317	8-29-1991	10.05
318	10-10-1991	TSO Table I
320	10-31-1991	151.040
304	11-7-1991	151.030, 151.031
321	12-12-1991	71.18; Ch. 74, Schd. I
323	12-12-1991	32.23
324	12-12-1991	51.01 - 51.13
325	1-9-1992	111.06
326	1-9-1992	111.13
327	1-16-1992	114.16
328	1-30-1992	151.044
330	2-27-1992	51.01 - 51.13
332	4-16-1992	114.20
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334	5-21-1992	151.046
335	6-4-1992	TSO Table I
336	7-23-1992	TSO Table I
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337	7-23-1992	32.18, 32.22, 32.99, 33.11, 33.13, 34.04, 34.99, 50.99, 51.99, 52.09, 52.99, 53.99, 70.99, 71.18, 71.99, 72.01 - 72.12, 72.99; Ch. 74, Schd. I; 90.03, 90.07, 90.10, 90.99, 91.99, 110.001, 110.002, 110.006, 110.007, 110.011, 110.025 - 110.043, 110.080 - 110.089, 110.115 - 110.118, 110.130 - 110.142, 110.999, 111.10, 111.16, 111.99, 112.99, 114.01, 114.02, 114.04, 114.08 - 114.10, 114.12, 114.15, 114.99, 115.30 - 115.40, 115.99, 116.99, 130.02, 130.03, 130.06, 130.12, 130.14, 130.15, 130.44, 130.45, 130.99, 151.002, 151.009, 151.140 - 151.143, 151.155 - 151.157, 151.170 - 151.173, 151.999
338	8-6-1992	71.17, 90.05, 130.08, 130.11, 151.040 - 151.043, 151.105 - 151.125
339	8-6-1992	TSO Table I
341	8-27-1992	90.04
340	10-8-1992	32.02, 32.23
342	10-29-1992	151.044
343	10-29-1992	130.36
346	11-3-1992	71.18; Ch. 74, Schd. I
347	12-3-1992	TSO Table I
344	12-10-1992	TSO Table VII
348	12-10-1992	114.02
350	12-10-1992	71.18; Ch. 74, Schd. I
345	12-12-1992	130.66
349	12-15-1992	110.013
352	1-7-1993	110.999, 112.99, 115.99, 116.99
353	3-25-1993	TSO Table I
355	3-25-1993	32.15
354	4-15-1993	TSO Table I
365	6-24-1993	52.09
357	7-22-1993	130.47, 130.99

124	8-4-1993	114.02
360	8-5-1993	130.04
361	8-19-1993	111.03, 111.09
362	9-30-1993	111.03
363	10-28-1993	71.18; Ch. 74, Schd. I
364	11-25-1993	71.18; Ch. 74, Schd. I
267	1-13-1994	90.05
365	2-10-1994	130.13
370	2-10-1994	110.013
372	2-15-1994	32.02
371	3-3-1994	TSO Table I
376	4-28-1994	113.01, 113.11, 113.99
377	7-7-1994	151.001 - 151.004, 151.006 - 151.017, 151.125, 151.030 - 151.031, 151.033 - 151.036, 151.038, 151.040, 151.042 - 151.044, 151.046, 151.049, 151.050, 151.155 - 151.157, 151.173, 151.999
378	7-7-1994	TSO Table IV
379	7-7-1994	TSO Table I
380	7-28-1994	114.18
382	8-25-1994	TSO Table I
385	9-6-1994	113.01 - 113.11, 113.99
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389	11-24-1994	TSO Table I
391	12-15-1994	111.13
392	12-15-1994	111.12
393	12-15-1994	110.002
394	12-20-1994	32.15
395	12-29-1994	TSO Table I
396	1-12-1995	70.06; Ch. 73, Schd. I
397	1-12-1995	113.01 - 113.11, 113.99
398	2-16-1995	52.13
399	2-16-1995	TSO Table IV
402	2-16-1995	50.02
403	3-2-1995	90.05, 111.03, 130.20
404	3-2-1995	30.20 - 30.23

405	3-2-1995	TSO Table I
406	3-2-1995	32.02, 32.20
408	3-4-1995	52.14, 111.12, 111.13, 130.06, 130.99
407	3-11-1995	TSO Table I
408	3-7-1995	10.24, 33.11, 34.01, 52.11, 70.01
410	4-13-1995	34.01
412	4-27-1995	151.017
413	4-27-1995	TSO Table I
415	5-11-1995	TSO Table I
418	7-6-1995	TSO Table I
416	7-13-1995	130.04
420	7-27-1995	151.013
425	8-15-1995	TSO Table IV
421	8-24-1995	TSO Table I
422	8-24-1995	TSO Table I
423	8-24-1995	TSO Table I
424	8-24-1995	TSO Table I
426	9-5-1995	TSO Table IV
417	9-14-1995	TSO Table I
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429	11-2-1995	151.014, 151.045, 151.046
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388	11-10-1995	TSO Table I
432	11-21-1995	TSO Table IV
434	11-30-1995	151.013, 151.040, 151.105 - 151.125
435	11-30-1995	151.030 - 151.031, 151.033 - 151.036, 151.038, 151.040 - 151.043
439	11-30-1995	TSO Table II
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436	12-14-1995	TSO Table I
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441	12-28-1995	110.013
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443	1-11-1996	TSO Table I
438	1-18-1996	30.06

430	2-1-1996	151.105 - 151.125, 151.040 - 151.043
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445	2-22-1996	10.24
447	3-28-1996	TSO Table I
449	4-4-1996	TSO Table I
451	5-21-1996	130.65
454	6-4-1996	113.02, 113.06, 113.09, 113.10
455	6-20-1996	50.15 - 50.24
459	7-1-1996	TSO Table I
460	7-8-1996	113.02, 113.06, 113.09, 113.10
461	8-6-1996	TSO Table I
453	8-22-1996	TSO Table VII
456	8-29-1996	32.15
462	9-26-1996	71.18; Ch. 74, Schd. I
463	9-26-1996	53.09
464	10-1-1996	TSO Table I
466	10-17-1996	TSO Table I
465	12-12-1996	TSO Table I
467	12-19-1996	151.002, 151.036, 151.038
470	1-1-1997	151.007, 151.012
474	2-6-1997	151.002, 151.034 - 151.036, 151.038, 151.040, 151.042 - 151.046
473	2-13-1997	TSO Table I
476	2-13-1997	TSO Table I
477	2-27-1997	TSO Table I
481	4-17-1997	TSO Table I
480	4-24-1997	151.009, 151.048
482	5-5-1997	151.030, 151.031, 151.033 - 151.036, 151.038, 151.042 - 151.044
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469	5-15-1997	TSO Table I
485	6-12-1997	151.040
486	6-12-1997	114.02
487	7-10-1997	151.112
489	7-1-1997	TSO Table I

490	7-10-1997	51.01
488	7-17-1997	151.046
493	8-14-1997	TSO Table I
494	8-14-1997	151.007
495	8-14-1997	151.007
496	8-21-1997	151.034, 151.035, 151.038
497	9-4-1997	151.002
498	9-4-1997	151.043
499	9-4-1997	TSO Table I
501	9-18-1997	151.007, 151.012, 151.030 - 151.031, 151.033 - 151.036, 151.038
503	10-16-1997	TSO Table I
500	11-13-1997	151.065, 151.072
504	11-20-1997	71.18; Ch. 74, Schd. I
506	12-2-1997	151.156
508	12-4-1997	TSO Table I
506	12-2-1997	151.010
505	1-1-1998	151.002
507	1-1-1998	TSO Table I
509	1-1-1998	31.04
510	2-5-1998	TSO Table I
513	2-5-1998	114.09
514	2-5-1998	151.046
511	3-5-1998	130.67, 130.68, 130.99
512	5-7-1998	30.08
517	5-7-1998	113.08
516	6-25-1998	TSO Table I
518	7-2-1998	151.007
519	7-2-1998	110.055 - 110.067, 110.999
520	7-16-1998	151.002
522	8-13-1998	130.19
521	9-3-1998	151.048
527	9-24-1998	110.055 - 110.067
256	10-14-1998	114.07
524	10-22-1998	TSO Table I
528	10-29-1998	151.030, 151.031, 151.033 - 151.036, 151.038, 151.042 -

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530	10-29-1998	TSO Table I
533	12-17-1998	70.07, 70.99
525	12-31-1998	151.040
534	12-31-1998	TSO Table I
535	12-31-1998	TSO Table I
532	1-28-1999	TSO Table I
536	1-28-1999	TSO Table I
537	2-18-1999	151.065, 151.068, 151.073
538	2-18-1999	151.011
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542	3-25-1999	110.061, 110.067
543	4-1-1999	111.17, 111.99
544	4-15-1999	151.036, 151.037
546	5-6-1999	151.013, 151.140 - 151.143
549	6-3-1999	151.002, 151.030, 151.031, 151.046
547	6-10-1999	151.047
550	6-10-1999	111.03
553	7-15-1999	TSO Table IV
554	7-6-1999	151.002, 151.013, 151.040, 151.048
555	7-15-1999	TSO Table I
556	9-30-1999	TSO Table I
558	9-30-1999	111.14
557	10-14-1999	150.01 - 150.21, 150.35 - 150.40, 150.55 - 150.66, 150.99
560	10-28-1999	71.18; Ch. 74, Schd. I
559	11-11-1999	TSO Table I
562	11-11-1999	130.06, 130.99
561	11-25-1999	34.04
563	11-25-1999	151.002, 151.034 - 151.036, 151.038 - 151.047, 151.111
564	12-30-1999	33.12
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565	2-24-2000	TSO Table I
567	3-16-2000	151.085, 151.087 - 151.092, 151.094

566	3-30-2000	130.07
568	5-25-2000	151.086, 151.089, 151.093
571	6-27-2000	111.03
572	7-27-2000	151.030
573	8-10-2000	TSO Table I, TSO Table IV
570	8-24-2000	90.30 - 90.58, 90.99
575	8-24-2000	TSO Table IV
569	8-31-2000	TSO Table I
577	9-14-2000	TSO Table I
578	9-14-2000	90.35
581	10-5-2000	130.06, 130.99
583	10-26-2000	51.07
584	11-6-2000	TSO Table I
586	11-15-2000	151.066
585	11-16-2000	114.02
589	1-25-2001	70.99, 72.03, 72.99
588	12-28-2001	TSO Table I
590	2-1-2001	111.08
591	3-1-2001	111.03
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593	3-1-2001	TSO Table I
594	3-15-2001	51.03, 51.09
595	4-26-2001	TSO Table I
597	4-26-2001	151.043
596	5-3-2001	TSO Table I
599	6-14-2001	130.06, 130.99
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601	6-28-2001	151.045
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604	8-2-2001	TSO Table I
605	8-16-2001	TSO Table VII
607	8-16-2001	TSO Table VII
608	8-30-2001	150.05
609	8-30-2001	151.002, 151.141
610	8-30-2001	10.25
611	9-27-2001	TSO Table I

612	10-11-2001	TSO Table I
614	10-25-2001	71.18; Ch. 74, Schd. I
588	12-28-2001	TSO Table I
617	1-24-2002	150.03
618	2-28-2002	111.14
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622	3-28-2002	TSO Table I
624	4-11-2002	TSO Table I
625	4-25-2002	150.05
628	4-25-2002	32.22
626	5-30-2002	151.048
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629	6-13-2002	130.10, 130.99
631	6-27-2002	151.111
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633	7-18-2002	110.999
634	7-18-2002	114.99
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636	8-15-2002	TSO Table I
637	8-15-2002	TSO Table I
576	8-24-2000	TSO Table II
639	9-12-2002	151.002
638	9-19-2002	151.009
640	9-26-2002	TSO Table I
641	9-26-2002	TSO Table VII
709	9-26-2002	TSO Table VII
643	11-14-2002	151.007
645	11-14-2002	TSO Table I
649	12-26-2002	130.36, 130.99
650	12-26-2002	TSO Table I
648	1-2-2003	151.141
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652	1-30-2003	TSO Table II
654	2-27-2003	TSO Table I
657	3-20-2003	TSO Table II
658	3-27-2003	TSO Table I
661	3-27-2003	TSO Table I

660	4-10-2003	130.03
663	4-15-2003	130.66
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665	5-29-2003	130.07
666	5-29-2003	111.15
667	5-29-2003	TSO Table I
668	5-29-2003	TSO Table I
669	6-12-2003	TSO Table I
671	6-26-2003	TSO Table I
672	6-26-2003	151.046
673	6-26-2003	TSO Table I
674	6-26-2003	TSO Table I
675	7-10-2003	TSO Table I
676	8-14-2003	111.01
677	8-28-2003	151.108
678	8-28-2003	151.010, 151.012
679	8-28-2003	TSO Table II
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686	11-13-2003	TSO Table I
689	11-27-2003	151.012 - 151.014
691	11-27-2003	TSO Table I
690	12-4-2003	TSO Table IV
693	2-5-2004	130.10, 130.99
694	2-5-2004	151.015
695	2-5-2004	TSO Table I
697	3-11-2004	151.012
698	4-15-2004	130.10, 130.99
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706	6-3-2004	TSO Table II
707	6-17-2004	TSO Table I
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710	7-29-2004	150.12, 150.13
711	8-26-2004	TSO Table I
712	8-26-2004	TSO Table I
713	8-26-2004	TSO Table II
717	12-30-2004	TSO Table I
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724	2-10-2005	151.040
723	3-17-2005	TSO Table I
726	3-24-2005	71.14
727	4-14-2005	TSO Table I
729	4-28-2005	TSO Table I
730	5-12-2005	111.05, 111.06
731	6-2-2005	TSO Table I
732	7-14-2005	TSO Table I
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736	9-8-2005	151.013, 151.040
740	10-27-2005	71.18; Ch. 74, Schd. I
739	11-10-2005	TSO Table I
741	12-1-2005	151.030, 151.031, 151.033, 151.035 - 151.044
737	1-1-2006	31.04
742	1-26-2006	30.21
746	2-2-2006	TSO Table I
745	2-23-2006	TSO Table I
749	3-16-2006	150.65
750	3-30-2006	130.45, 130.99
751	3-30-2006	TSO Table I
752	3-30-2006	150.11
753	3-30-2006	151.155 - 151.157
755	4-27-2006	TSO Table I
754	4-27-2006	TSO Table IV
756	5-11-2006	1112.08
758	5-11-2006	TSO Table I
760	5-25-2006	90.32, 90.43, 90.45, 90.47, 90.50,

		90.57
757	6-15-2006	TSO Table I
762	6-15-2006	71.09
763	6-15-2006	151.033
761	6-29-2006	TSO Table II
765	7-6-2006	TSO Table I
784	7-26-2007	TSO Table I
764	8-3-2006	72.25 - 72.32
766	8-17-2006	52.05, 52.10
768	8-24-2006	150.65
769	10-26-2006	33.01 - 33.11, 33.13
770	10-26-2006	71.18; Ch. 74, Schd. I
771	10-26-2006	151.032
773	12-14-2006	111.14
774	12-28-2006	32.23
778	5-17-2007	151.002
777	5-31-2007	130.11
780	6-14-2007	90.16, 111.03, 111.04, 151.010
783	6-28-2007	TSO Table IV
779	7-12-2007	114.01, 114.02, 114.05, 114.06, 114.09 - 114.14, 114.18, 114.23
787	10-25-2007	71.18; Ch. 74, Schd. I
786	11-21-2007	111.03
789	1-3-2008	151.155 - 151.157
790	3-20-2008	151.110
793	3-27-2008	151.002, 151.030 - 151.034, 151.038
792	4-17-2008	150.64
798	5-20-2008	150.55
796	5-29-2008	111.03
799	7-3-2008	TSO Table I
801	7-10-2008	32.15
802	7-10-2008	114.11
800	7-31-2008	111.01, 111.13, 111.99
804	8-28-2008	111.03
805	9-11-2008	150.09, 150.11, 150.14, 150.36, 150.39, 150.40, 150.64
806	9-11-2008	130.17

807	9-25-2008	54.01 - 54.04, 54.15 - 54.17, 54.30 - 54.33, 54.45 - 54.54, 54.99
808	9-25-2008	151.002
811	12-24-2008	110.035
812	2-12-2009	110.033, 110.037, 110.999
813	2-26-2009	151.031 - 151.034, 151.037 - 151.044
814	2-26-2009	TSO Table I
815	3-26-2009	151.007, 151.034, 151.036, 151.105 - 151.125, 151.040 - 151.043
816	4-30-2009	151.045
817	4-30-2009	TSO Table I
818	4-30-2009	TSO Table I
819	5-14-2009	130.09
820	5-14-2009	111.03
823	7-30-2009	130.20
822	8-6-2009	151.005, 151.069
825	8-27-2009	51.01
826	12-10-2009	130.15
828	12-24-2009	110.028
830	2-25-2010	151.040
831	3-11-2010	110.999
832	5-13-2010	114.16
835	9-2-2010	TSO Table I
838	9-30-2010	71.18; Ch. 74, Schd. I
839	12-16-2010	130.36
841	12-30-2010	110.055, 110.061, 110.064, 110.999
844	3-24-2011	30.22
845	5-12-2011	113.06
846	6-16-2011	114.14
847	6-30-2011	151.015
848	7-14-2011	113.05
849	10-27-2011	71.18; Ch. 74, Schd. I
851	12-29-2011	110.034
852	3-29-2012	32.01
853	3-29-2012	30.02

855	5-17-2012	111.03
857	8-23-2012	TSO Table I
856	9-6-2012	TSO Table I
859	9-6-2012	151.002
860	9-13-2012	116.01 - 116.07
858	11-29-2012	TSO Table I
862	12-27-2012	91.01 - 91.03, 114.11
865	3-5-2013	151.002, 151.012, 151.034, 151.036, 151.040
867	4-11-2013	TSO Table IV
868	5-7-2013	TSO Table I
870	6-4-2013	111.18, 111.99
871	8-20-2013	30.08
872	8-20-2013	31.04
873	10-1-2013	110.155 - 110.163, 110.999
874	10-1-2013	110.164
875	10-1-2013	TSO Table I
876	11-19-2013	151.040
877	12-3-2013	151.002, 151.013, 151.014, 151.039 - 151.041, 151.043, 151.044, 151.046, 151.047, 151.140 - 151.143
880	1-7-2014	32.15
883	5-20-2014	151.113
884	5-20-2014	151.112
887	5-20-2014	32.15
889	6-17-2014	112.10
885	7-17-2014	130.04
886	7-17-2014	112.01 - 112.09
890	8-19-2014	110.064
891	9-16-2014	114.01, 114.06, 114.09, 114.15, 114.35 - 114.37
893	10-7-2014	51.03, 51.04
894	10-7-2014	130.03
895	10-7-2014	116.06
896	11-18-2014	151.108
898	12-16-2014	151.185 - 151.200
899	1-20-2015	151.035

901	2-17-2015	151.007
902	2-17-2015	151.187, 151.189
903	3-17-2015	151.030, 151.031, 151.033 - 151.036, 151.038, 151.040, 151.042 - 151.044
904	5-19-2015	114.36
905	6-2-2015	110.185 - 110.189, 110.999
907	6-16-2015	151.009
908	8-18-2015	31.04
909	8-18-2015	151.002, 151.044 - 151.046
910	8-18-2015	30.09
911	8-18-2015	31.06
912	9-1-2015	151.040
914	9-1-2015	151.142
915	9-1-2015	151.013, 151.039 - 151.041, 151.043, 151.044
917	10-6-2015	50.02
918	10-6-2015	72.03
919	10-20-2015	Adopting Ordinance
920	12-1-2015	53.03
921	10-20-2015	TSO Table I
922	11-17-2015	151.002
923	11-17-2015	151.112
925	12-15-2015	151.051
926	2-2-2016	TSO Table I
927	1-19-2016	151.042, 151.043, 151.044
928	3-2-2016	110.187, 110.190
929	2-16-2016	TSO Table I
930	3-15-2016	TSO Table I
931	3-15-2016	TSO Table I
933	6-21-2016	151.190, 151.194
934	6-21-2016	90.08, 151.013
936	6-21-2016	TSO Table I
937	7-5-2016	30.08
939	8-3-2016	TSO Table VII
940	8-16-2016	151.007
946	10-4-2016	Ch. 74, Schd. I
948	11-1-2016	TSO Table VII

950	11-15-2016	151.007, 151.034
951	11-15-2016	151.001
951	12-20-2016	150.22, 151.018
953	12-20-2016	151.002, 151.008, 151.011