WADENA CITY CODE

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Prepared by:

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CHAPTER 1

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

SECTION 1.01. APPLICATION.

The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the City Code, and the City Code shall apply to all persons and property within the City of Wadena, Minnesota, and within such adjacent area as may be stated in specific provisions.

SECTION 1.02. DEFINITIONS.

Subdivision 1. Application.

Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph and provision of this City Code, shall have the following meanings and inclusions:

A. The term "City" means the City of Wadena, Minnesota, acting by or through its duly authorized representative.

B. The terms "Council" and "City Council" mean the City Council of the City of Wadena, Minnesota.

Source: City Code
Effective Date: 01-01-1979

C. The term "City Administrator" means the person duly appointed by the City Council and acting in such capacity. All references to "City Clerk", "City Treasurer" and "City Clerk-Treasurer" in the City Code or other documents shall be references to the City Administrator.

Source: Ordinance No. 87, 3rd Series
Effective Date: 11-28-1991

D. The term "person" includes all firms, partnerships, associations, corporations and natural persons.

E. The words "written" and "in writing" mean any mode of representing words and letters in the English language.

F. The term "street" means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be

limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

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

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

I. The terms "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.

Source: City Code
Effective Date: 01-01-1979

J. The term "misdemeanor" means the crime for which a sentence of not more than ninety (90) days or a fine of not more than $700.00, or both, may be imposed.

Source: Ordinance No. 32, 3rd Series
Effective Date: 05-30-1984

K. The term "petty misdemeanor" means an offense, which does not constitute a crime, and for which a sentence of a fine of not more than $200.00 may be imposed.

Source: Ordinance No. 87, 3rd Series
Effective Date: 11-28-1991

L. The term "conviction" means either of the following accepted and recorded by the Court:

1. A plea of guilty, or,

2. A verdict of guilty by a jury or a finding of guilty by the Court.

M. The term "crime" means conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.

N. The term "Ordinance" means an ordinance duly adopted by the City Council of Wadena, Minnesota.

O. The term "ex officio member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his discretion) to speak to any question coming before the board, commission or other deliberative body of which he is such member.

P. The term "may" is permissive.

Q. The term "shall" is mandatory.

R. The term "violate" includes failure to comply with.

S. The term "premises" means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

Source: City Code
Effective Date: 01-01-1979

T. The terms "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 owned or occupied.

U. The term "private property" means all property not included within the definition of public property or public place.

Source: Ordinance No. 14, 3rd Series
Effective Date: 06-18-1981

SECTION 1.03. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR.

Every person violates a chapter, section, subdivision, paragraph or provision of this City Code when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor, or as for a petty misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision violated appears. Upon conviction for a crime, the actor may be convicted of either the crime charged if it is a misdemeanor, or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved, together with additional costs levied for the costs of prosecution.

SECTION 1.04. OTHERWISE UNLAWFUL

The City Code does not authorize an act or omission otherwise prohibited by law.

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

SECTION 1.05. PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES.

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

SECTION 1.06. MEANINGS.

As used in this City Code, words of the male gender shall include the female and neuter, and the singular shall include the plural and the plural shall include the singular.

SECTION 1.07. CITATION.

This codification of the ordinances of the City of Wadena, Minnesota shall henceforth be known as the Wadena City Code and cited thus: "WADENA CITY CODE, Sec.."

SECTION 1.08. PENALTIES FOR EACH OFFENSE.

When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph or provision of this City Code, such penalty or forfeiture shall be construed to be for each such violation.

Source: City Code
Effective Date: 01-01-1979

SECTION 1.09. TITLES.

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

Source: Ordinance No. 57, 3rd
Series Effective Date: 04-02-1986

SECTION 1.10. REFERENCE TO A PUBLIC OFFICIAL.

Whenever an appointed public official is referred to in the City Code, the reference shall include such public official or his designee.

Source: Ordinance No. 65, 3rd Series
Effective Date: 04-22-1987

(Sections 1.12 through 1.99, inclusive, reserved for future expansion.)

CHAPTER 2

ADMINISTRATION AND GENERAL GOVERNMENT

SECTION 2.01 AUTHORITY AND PURPOSE.
Pursuant to the authority granted by Statute, this Chapter of the City Code is enacted so as to set down for enforcement the government and good order of the City by and through the Council.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.02. COUNCIL MEETINGS.

Regular meetings of the Council shall be held in the Council Chambers in the City Administrative Center on the days and at the hours set by resolution of the Council at the first regular meeting in January each year. Provided, that if any regular meeting shall fall on a legal holiday, such meeting shall be held on the next following business day.

SECTION 2.03. SPECIAL MEETINGS.

Special meetings of the Council may be called by the Mayor or by any two other members of the Council by writing filed with the City Administrator stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Administrator 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 three (3) days prior to the time stated therein, or by personal service at least seventy-two (72) hours prior to the projected time of meeting. In addition to mailing, the City Administrator shall post a notice of special meeting in the City Hall where other notices are generally posted, and shall advise local news media of the special 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 Administrator 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 of special meeting may be dispensed with in a situation which requires immediate emergency action. In determining what constitutes such an emergency, the Council shall be guided by considerations of whether the situation calls for immediate action involving the protection of the public

peace, health or safety, and in all such cases, the members of the Council in attendance shall sign a waiver of notice which shall be made a part of the minutes of such meeting.

Source: Ordinance No. 86, 2nd Series
Effective Date:11-28-1991

SECTION 2.04. ORGANIZATIONAL MEETING.

At the first regular Council meeting in January of each year, the Council shall (l) designate the depository or depositories of City funds; (2) designate the official newspaper; (3) elect an acting Mayor from the Council membership, who shall perform the duties of the Mayor during any disability or absence of the Mayor from the City or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies; and, (4) appoint such officers and employees and such members of Boards, Commissions, and Committees as may be necessary.

SECTION 2.05. COUNCIL PROCEDURE AT REGULAR MEETINGS.

Subd. 1. Items to be prepared by the City Administrator

A. An agenda for the forthcoming meeting;

B. A report from the City Administrator on administrative activities of the preceding month and the condition of funds at the end of the preceding month;

C. A compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the City during the preceding month, such list to be called the “Claim Report” and bearing headings “Claimant”, “Purpose”, and “Amount”; and,

D. A copy of all minutes to be considered. The City Administrator shall forthwith cause to be mailed to the Mayor, each member of the Council, and the City Attorney copies of all said documents.

E. Roberts' Rules of Order (Newly Revised) shall govern all Council meetings as to procedural matters not otherwise set forth in the City Code or duly adopted rules of procedure. The order of business at regular meetings shall be as follows:

1. Call to Order.

2. Roll Call.

3. Determination of Quorum.

4. Approval of Minutes. (Actual reading may be waived if each member of the Council was furnished with a copy thereof as hereinbefore set forth.)

5. Payment of Claims.

6. Meeting Opened in the Order Stated in the Agenda to Persons Requesting to Appear Before the Council. The presiding officer may advise any person appearing as to the amount of time allowed prior to his speaking, or later limit such time. Persons speaking shall give their name, address, and state their business.

7. Old Business.

8. New Business.

9. Communications.

10. Reports of Staff Members.

11. Reports From Boards and Commissions.

12. Reports of Councilmen.

13. Report From Mayor.

14. Meeting Opened to the Public. The presiding officer shall limit the time allowed. Persons speaking shall give their name, address, and state their business.

15. Adjournment

Subd. 2. Matters inappropriate for consideration at a meeting.

Matters inappropriate for consideration at the meeting, or not in the order specified, shall not be considered except (1) with the consent of the members of the Council, or (2) scheduled public hearings or bid lettings at the time stated in the notice. All claims for payment and requests to appear before the Council must be made and filed with the City Administrator at or before 12:00 o'clock noon on the Monday preceding a regular Wednesday meeting of the Council, at which the appearance is to be made or the claim to be considered.

SECTION 2.06. RULES OF PROCEDURE.

The Council may adopt by resolution certain written rules of procedure to be followed in all regular and special Council meetings. Such rules shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum

in the meetings. Such rules may be amended from time-to-time by majority vote of the entire Council after being considered at two consecutive regular meetings.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.07. CITY ADMINISTRATOR.

Subd. 1. Office Established.

The office of Clerk-Treasurer shall be combined with a new office entitled City Administrator. The duties of the City Administrator shall include the duties of the Clerk-Treasurer as delineated in MN Stat. §§ 412.141 and 412.151 and such other appropriate duties as may be imposed upon the City Administrator by the Council.

Subd. 2. Appointment.

The City Administrator shall be appointed by a majority vote of the Council and shall serve at the pleasure of the Council. Removal from the position shall be by affirmative vote of the majority of the members of the Council. The selection of the City Administrator shall be based on education and administrative experience, and shall have experience and knowledge in the area of government or business administration.

Subd. 3. Contract.

The Council may enter into such employment agreement with the City Administrator as it shall deem necessary or desirable in order to further implement the appointment of the City Administrator.

Subd. 4. Duties.

The City Administrator shall be the chief administrative officer for the City and he shall be responsible to the Council for the proper administration of all affairs of the City, which duties shall include the following:

A. Direct and perform the actual day-to-day supervision and control of the administrative affairs of the City.

B. Compile and prepare all necessary data and information to aid the Council in making decisions, assist the Council in coordinating, administering, and implementing decisions in regard to requests and problems of municipal concerns; research and assist the Council in developing and recommending solutions thereto; and coordinating efforts through directives to other departments, other agencies and the general public.

C. Coordinate enforcement of all laws of the State of Minnesota, City Code provisions and resolutions in cooperation with the Chief of Police and other appropriate Department Heads of the City.

D. Advise and report to the Council when requested on matters of governmental and public policy and to that end keep informed of the latest administrative practices.

E. Prepare and recommend to the Council a single consolidated budget including statements relating to projected revenue, proposed sources of revenue, and all proposed expenditures to be made and obligations incurred by the City in the forthcoming fiscal year. The City Department Heads will work with the City Administrator in the preparation of the proposed budgets.

F. Administer all capital improvement projects and service programs as approved by the Council in conjunction with the appropriate Department Heads. The Council may, in its sole discretion, delegate the administrative authority to other Department Heads as it deems appropriate.

G. In conjunction with the Council and the appropriate Department Heads, establish such administrative policies and procedures as may be necessary to insure the proper and efficient operation of all departments and divisions of the City. The City Administrator shall, upon prior Council direction or approval, issue administrative orders to carry out such policies and procedures consistent with State law, City Code provisions and Council policy.

H. Recommend to the Council the approval or disapproval of all applications for licenses or permits, in conjunction with the appropriate Department Heads, after an appropriate investigation of the application.

I. Stay abreast of development in the public administrative field and cooperate with governmental units and municipalities on matters of mutual interest.

J. Supervise/manage the conduct of local elections in accordance with the prescribed laws and regulations.

K. Perform such other duties as may be required by the Council personnel.

Subd. 5. The City Administrator shall be the personnel officer for the City.

The City Administrator, together with the appropriate Department Head, shall interview all probationary permanent full-time employees, and shall make recommendations to the Council for their hiring, promotion, or demotion or suspension. Should a Department Head suspend an employee upon an emergency basis he/she shall notify the City Administrator within twelve (12) hours of the suspension and the City Administrator shall then notify the Council and shall make recommendations to the

Council as set forth above. All final determinations with regard to personnel policies shall be made by the Council. The City Administrator shall be responsible for keeping the Council informed of personnel matters occurring within the City. The Department Heads and supervisors shall keep the City Administrator informed of current issues and problems within their respective departments so that he may adequately advise the Council.

Subd. 6. Purchasing.

The City Administrator shall exercise control over the fiscal expenditures of all departments and divisions of the City and such appropriations as appear in the annual City budget.

Subd. 7. City Clerk-Treasurer.

The City Administrator shall perform all duties of the City Clerk and the City Treasurer as required by law where the signature of the City Clerk or City Treasurer is required by law on any document, the execution thereof by the City Administrator shall be deemed required execution thereof by the City Clerk or City Treasurer.

Subd. 8. Meetings.

The City Administrator shall attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. He shall be responsible for the preparation of the Council agenda and all related items. The City Administrator shall represent the City at official functions as directed by the Council and maintain good public relations with the citizens of the community.

Source: Ordinance No. 85, 3rd Series
Effective Date: 11-23-1990

SECTION 2.08. 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 Administrator and affixed by him. The official City Seal shall be a circular disc having engraved thereupon "CITY OF WADENA" and such other words, figures or emblems as the Council may, by resolution, designate.

SECTION 2.09. RIGHT TO ADMINISTRATIVE APPEAL.

If any person shall be aggrieved by any administrative decision of the City Administrator or any other City official, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefor upon the Mayor and City Administrator at least five (5) days prior to any regular Council meeting. Such request shall contain a general

statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence he 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 his/her 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.

SECTION 2.10. PROCEDURE FOR APPEALS AND OTHER HEARINGS.

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

Source: City Code
Effective Date: 01-01-1979

SECTION 2.10. 1 ENFORCING ADMINISTRATIVE OFFENSES.

Subd. 1. Purpose.

Administrative offense procedures established pursuant to this Section are intended to provide the public and the City with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain City Code provisions.

A. The City does not intend through the enactment of this Section to infringe on the prosecution or enforcement of those matters governed by State Statute but rather to provide an additional method for its law enforcement officers to use in maintaining the peace and well being of the City.

B. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the City may bring criminal charges in accordance with law. Likewise, the City in its discretion may choose not to initiate an administrative offense and may bring criminal charges in the first instance.

C. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty before the seven (7) day deadline, the administrative offense agreement becomes null and void and the citation will be forwarded to the Wadena County Court Administrator to be processed through the traditional methods.

Subd. 2. Administrative Offense Defined.

An administrative offense is a violation of a provision of the City Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in the Resolution entitled "RESOLUTION ADOPTING ADMINISTRATIVE OFFENSE PENALTIES" and any further resolutions which add to this list.

Subd. 3. Notice.

Any officer of the Police Department or any other person employed by the City, authorized in writing by the Mayor, and having authority to enforce the City Code, shall upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

Subd. 4. Payment.

Once such notice is given the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth in the schedule of penalties for the violation. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

Subd. 5. Failure to Pay.

In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with the applicable statutes. If the penalty is paid before the seven (7) day deadline expires, no such charge may be brought by the City for the same violation.

Subd. 6. Disposition of Funds.

All penalties collected pursuant to this Section shall be paid to the City and deposited in the General Fund.

Subd. 7. Offenses and Penalties.

Offenses which may be charged as administrative offenses and the penalties for such offenses shall be established by resolution of the Council from time to time. Copies of such resolution shall be maintained in the office of the City Clerk and at the Police Department.

Source: Ordinance No. 152, 3rd Series
Effective Date: 01-23-2004

SECTION 2.11. (Repealed by Ordinance No. 15, 3rd Series, adopted 05-27-1981.)

SECTION 2.12. FACSIMILE SIGNATURES.

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

SECTION 2.13. INTERIM EMERGENCY SUCCESSION.

Subd. 1. Purpose.

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

Subd. 2. Succession to Local Offices.

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

A. By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.

B. They shall review and record the specific facts relating to the nuclear attack or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.

C. They may, based on such facts, declare a state of emergency.

D. By majority vote of those persons 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.

E. Such interim successors shall serve until such time as the duly elected official is again available and returns to his/her position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

Subd. 3. Duties of the Interim Emergency Council.

The Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency.

Source: City Code
Effective Date: 01-01-1079

SECTION 2.14. EMERGENCY MANAGEMENT.

Subd. 1. Statute Adopted.

The "Minnesota Emergency Management Act of 1996", MN Stat., Chapter 12, insofar as it relates to cities, is hereby adopted by reference as part of this Section, as fully as if set forth explicitly herein.

Subd. 2. Establishment of an Emergency Management Agency.

There is hereby created within the City government an Emergency Management Agency, which shall be under the supervision of a Director to be appointed forthwith by the Mayor. The Director shall have direct responsibility for the organization, administration and operation of said Emergency Management Agency, subject to the overall direction and control of the Council.

Subd. 3. Emergency Preparedness Plan.

The Council may, by resolution, adopt, from time-to-time amend, or repeal an emergency preparedness plan for the City.

Source: Ordinance No. 120, 3rd Series
Effective Date: 06-05-1998

SECTION 2.15. SALARIES OF MAYOR AND MEMBERS OF THE COUNCIL.

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

Subd. 1. Annual Salaries

A. The annual salary of the Mayor shall be $5,300.00.

B. The annual salary of each other member of the Council shall be $4,600.00.

C. The salaries provided for herein shall be effective January 1, 2004.

Source: Ordinance No. 157, 3rd Series

Effective Date: 09-24-2004

SECTION 2.16. FUNDS.

The Council shall establish such funds as it deems necessary for the accurate and efficient accounting of City funds.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.17. WORKER'S COMPENSATION.

Subd. 1. Contractors.

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

Subd. 2. City Officers.

All officers of the City elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term shall be included in the definition of "employee" as defined in Minnesota Statutes relating to coverage for purposes of worker's compensation entitlement.

Source: Ordinance No. 86, 3rd Series
Effective Date: 11-28-1991

SECTION 2.18. FINANCE OFFICER.

Subd. 1. Position Created.

The position of Finance Officer is hereby created.

Subd. 2. Delegation of Duties.

All of the bookkeeping duties of the City Administrator are hereby delegated to the Finance Officer.

Subd. 3. Bond.

The Finance Officer shall furnish a fidelity bond conditioned on the faithful exercise of his or her duties. In lieu of such individual bond the Council may provide for a blanket bond, furnished by a surety company authorized to transact business in the

State of Minnesota, and covering the position and duties of the Finance Officer. Premiums on either of such bonds shall be paid from City funds.

Source: Ordinance No. 44, 3rd Series
Effective Date: 10-03-1984

SECTION 2.19. CITY ELECTION DATE AND TERMS OF COUNCIL MEMBERS.

Subd. 1. Date

Pursuant to MN Stat. §205.07, commencing with the 1994 City election, the regular City election of Wadena City Council shall be held annually on the first Tuesday after the first Monday in November of each even-numbered year. There shall be an odd-year election in 1991, and the next election would be in 1994.

Subd. 2. Terms

A. The term of two Council members whose current term will expire on the first business day of January, 1992 will be up for election in November, 1991 and then extended to the first business day of 1997; the term of two Council members whose current term will expire on the first business day of January, 1994 are extended to the first business day of January, 1995. The Mayor's term will expire on the first business day of January, 1992, will be up for election in November of 1991 and then extended to the first business day of 1995.

B. Two Council members shall be elected for four-year terms at each biennial City election commencing in 1991. The Mayor shall be elected for a two-year term at each such election.

Source: Ordinance No. 83, 3rd Series
Effective Date: 08-31-1990

(Sections 2.20 through 2.29, inclusive, reserved for future expansion.)

SECTION 2.30. DEPARTMENTS GENERALLY.

Subd. 1. Control.

All Departments of the City are under the overall control of the Council. Heads of all Departments are responsible to the Council and subject to its supervision and direction, except as otherwise provided herein.

Subd. 2. Appointment.

All Department Heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term and subject to any applicable Civil Service Regulations in effect in the City.

Subd. 3. Compensation.

All wages and salaries shall be fixed and determined by the Council.

Subd. 4. Table of Organization and Lines of Responsibility.

The Council may by resolution adopt, amend, and from time-to-time revise, a Table of Organization and define lines of responsibility and authority for the efficient governmental organization of the City.

Subd. 5. Budgetary Information.

The Heads of all Departments shall, prior to August 1 in each year, file with the City Administrator the projected financial needs of his/her Department for the ensuing year. Such projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the City Administrator.

SECTION 2.31. POLICE DEPARTMENT.

A Police Department is hereby established. The Head of this Department shall be known as the Chief of Police, and the number of additional members and employees of the Police Department shall be determined by the Council which may be changed from time-to-time. The Mayor shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when in his/her judgment an emergency exists for the preservation of life or property. The Chief of Police and all members of the Police Department shall have the powers and authority of police officers generally and shall perform such duties as are required of them by the Council or by law. The Chief of Police shall have general superintendence of the Police Department and custody of all property used and maintained for the purposes of said Department. It is the duty of the Chief of Police, on or before the fifth business day in each month, to file with the City Administrator a report as to all arrests made by, and other activities of, his/her Department during the previous month. The Chief of Police shall also make and file such other reports as may be required by the Council.

SECTION 2.32. FIRE DEPARTMENT.

A Fire Department is hereby established. The size and composition (including, but not limited to, a determination as to permanent and volunteer members) shall be established by resolution of the Council, which may be changed from time-to-time by a subsequent

resolution. The Council shall also establish, and from time-to-time revise and amend, written rules and regulations of the Department including, but not limited to, its internal structural organization and compensation, a copy of which shall be distributed to each of its members whenever established, revised or amended. The Chief of the Fire Department shall have general supervision of the Fire Department and custody of all property used and maintained for the purposes of said Department. He/She shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire Department and to prevention and extinguishment of fires are duly observed. He/She 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. It is the duty of the Chief of the Fire Department within five days after the end of each calendar quarter, to file with the City Administrator a report as to all fires occurring during the previous month stating the probable cause thereof and estimated damages; such reports shall also state the other activities of the Department. The Chief of the Fire Department shall also make and file such other reports as may be requested by the Council.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.33. PLANNING DEPARTMENT.

A Planning Department is hereby established. The Head of this Department shall be the Planning and Zoning Director. All planning, building and zoning activities shall be under his/her direct supervision and control. This Department shall include any legal reference to a "Building Department". The Building Inspector (referred to in the State Building Code as the "Administrative Authority"), shall be under the supervision of the Planning and Zoning Director.

Source: Ordinance No. 86, 3rd Series
Effective Date: 11-28-1991

SECTION 2.34. PUBLIC WORKS DEPARTMENT.

A Public Works Department is hereby established. The Head of this Department shall be the Public Works Superintendent. The City landfill, streets, parks and sewerage utility shall be under his/her direct supervision and control.

Source: Ordinance No. 33, 3rd Series
Effective Date: 05-30-1984

SECTION 2.35. UTILITIES DEPARTMENT.

A Utilities Department is hereby established. The Head of this Department shall be the Utilities Superintendent. The City electric and water utilities shall be under his/her direct supervision and control.

SECTION 2.36. LEGAL DEPARTMENT.

A Legal Department is hereby established. The Council shall appoint a City Attorney, or firm of attorneys, who shall be Head of the Legal Department, together with such assistants as may be necessary who shall serve at the pleasure of the Council. The City Attorney shall perform such duties as are required of him/her by law or referred to him/her by the Council. It shall be the official duty of the City Attorney to act as "Revisor of Ordinances".

Source: City Code
Effective Date: 01-01-1979

SECTION 2.37. (Repealed by Ordinance No. 86, 3rd Series, adopted 11-13-1991.)

(Sections 2.38 through 2.49, inclusive, reserved for future expansion.)

SECTION 2.50. BOARDS AND COMMISSIONS GENERALLY.

Subd. 1. Appointments

All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, and such appointment confirmed by the Council at the first regular meeting in January of each year. The term of each appointee shall be established and stated at the time of his/her appointment, and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section.

Subd. 2. Terms

New appointees shall assume office on February 1, January 31 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 a full term appointment, but the appointment shall be only for the unexpired term.

Subd. 3. Absence

Unexcused absence from three consecutive Board or Commission meetings (whether regular or special) held at least twenty (20) days apart shall cause a vacancy in the position held by a member, and the Council shall forthwith appoint a replacement to fill such vacancy. Excuse can only be granted by the Council for serious illness of the member, or a member of his family, or some equally valid reason.

Subd. 4. Removal

Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and his/her position filled as any other vacancy.

Subd. 5. Remuneration and Reimbursement

No appointed Board or Commission member shall be an employee of the City except those who are members by virtue of their office. Except as herein otherwise provided, all appointed Board and 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.

Subd. 6. Chairman and Secretary

The Chairman and Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year, provided that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission.

Subd. 7. Meetings and Terms

Each Board and Commission shall hold its regular meetings at a time established and approved by the Council. Except as otherwise provided herein, one of the members may be a member of the Council 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 Councilman or the Mayor.

Subd. 8. Application

Except as otherwise provided by statute or another Section of the City Code, the provisions of this Section shall apply to all Boards and Commissions.

Source: Ordinance No. 162, 3rd Series
Effective Date: 09-30-2005

SECTION 2.51. AIRPORT ADVISORY BOARD. (Repealed by Ordinance No. 162, 3rd Series, adopted 09-20-2005).

SECTION 2.52. LIBRARY BOARD.

Subd. 1. Establishment and Composition.

A Library Board composed of nine (9) members is hereby established. Board members shall serve staggered three-year terms.

Subd. 2. Duties.

The duties of the Library Board are to advise the Council as to management and operation of the City Library and the maintenance and improvement of Library facilities.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.53. PLANNING COMMISSION.

Subd. 1. Establishment and Composition.

The Commission shall be composed of seven (7) members; one of those members may be a member of the Council. Commission members shall serve staggered three-year terms. In addition to the appointed members, one Council member (if not a member of the Board), the Public Works Superintendent, the Utility Superintendent, and the Planning and Zoning Director shall be ex officio, non-voting, members.

Source: Ordinance No. 116, 3rd Series
Effective Date: 04-03-1998

Subd. 2. Powers and Duties.

The Planning Commission shall have all the powers and duties defined or granted by statute and the City Code relating to planning, zoning and subdivision regulation, and shall act in an advisory capacity to the Council in all such areas. When conducting hearings it shall keep a true and accurate account thereof, of its findings, and of its decision.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.54. JOINT RECREATION BOARD.

Subd. 1. Establishment and Composition.

There is hereby created a Recreation Board for the community of Wadena, Minnesota, pursuant to the authority given by Chapter 233, Laws of 1937, and acts amendatory and supplementary thereto, under which the power of the City (formerly referred to as the Village) and the School Board to operate a program of recreation may be delegated to such a Board.

A. The Board shall consist of seven (7) members, composed as follows: one member of the Council, who shall be appointed by the Council; one member of the School Board who shall be appointed by the School Board; and five citizen members, two of whom shall be appointed by the Council, two of whom shall be appointed by the School Board, and one of whom shall be appointed by joint action of the Council and School Board. The Council and School Board members shall serve for the term ending with their respective offices as such. The citizen members shall be appointed for a term of three (3) years. The appointment of citizen members to fill the vacancies created by the expiration of the term or because of other reasons, shall be made by the body that appointed the member whose departure created the vacancy. Both original and successive appointees shall serve until their successors are appointed and qualified.

B. All members will be required to attend meetings. If a member misses three (3) consecutive meetings (excluding extenuating circumstances) the Board Chairperson or Designee would ask for the member's resignation, which would be submitted to the Council or the School Board for official action. Citizen members shall hold no other public office except that of notary public. Members of the Board shall hold no other public office except that of notary public. Members of the Board shall serve without compensation and shall not be personally interested in any contracts of the Board. They shall, at the beginning of each fiscal year, select a Chairman and a Secretary from their own number with duties in addition to the Board membership implied by these titles. A majority shall constitute a quorum for the transaction of business.

C. The Board shall advise the Council and the School Board upon such matters and shall have jurisdiction over and be responsible for the operation and scheduling of public recreational activities on the facilities made available to it for recreational purposes from January 1st to December 31st each year. The Board shall have no authority to acquire land in its own name or without the consent of the governmental unit in whose name such land is to be acquired and it shall have no authority to construct buildings or other permanent structures upon any land without the consent of the owners of such land, and in no event shall such buildings or structures be constructed by the Board upon privately owned land.

Subd. 2. Recreation Board

General Powers. The Recreation Board shall have power to operate a program of public recreation and playgrounds as joint agent of the City, and Independent School District No. 2155, Wadena, Minnesota. If any part of the public recreation program of the community is administered directly by any public or private agency other than the Board, the Board shall have power to make cooperative agreements with any such public or private agency for the purpose of coordinating all the activities and facilities included in such public recreation program. The program directly administered by the Board may make use of public property assigned to, or of private property leased or otherwise made available for, public recreational use. The Council shall determine what land is to be acquired by it for recreational purposes, what land it shall use in carrying on its recreational program and what buildings or other permanent structures are to be constructed upon such land. The School District shall make similar decision with respect to its land, and the construction of buildings or other permanent structures upon it.

Subd. 3. Specific Powers.

In order to carry on the recreational program provided herein, the Board shall have power to:

A. Adopt rules for its meetings and the transaction of its business and rules governing the use by the public of the recreation facilities under its control;

B. Employ and fix the compensation of a superintendent or supervisor of recreation, instructors, leaders, administrative guardians, and custodial personnel, and to carry the Workman's Compensation insurance and provide for surety bonds for any such officers and employees; provided all officers and employees shall be selected on a basis of merit and fitness and instructors and directors shall be appointed in compliance with the minimum qualifications established by the Minnesota Department of Education; make purchase of materials, supplies, equipment, and services, but such purchases of other than personal services shall be competitive and in orders involving more than Five Hundred Dollars ($500.00) shall be selected after public advertising and opening of written bids;

C. Make contracts for completion within a current fiscal year;

D. Lease real or personal property for public recreational use for periods not longer than one (1) year;

E. Accept gifts of real and personal property for public recreational purposes, subject to the provisions of Subd. 2;

F. Maintain and care for public property which it has acquired or had assigned to it for public recreational purposes including the carrying of any insurance coverage it deems necessary;

G. Perform whatever other acts are reasonable and necessary and proper to carry on a recreational program under this Section.

Subd. 4. Preparation of Program.

The Board shall each year prior to September 1st prepare a comprehensive program for public recreation activities for the ensuing calendar year, with recommended divisions of responsibility as between private agencies, and the Board itself. The Board's own program shall be described in terms of activities as well as finances. The budget of finances shall be substantially balanced and shall show:

A. Estimated revenues

Estimated revenues shall be divided as follows: (1) contribution from Council; (2) contribution from School Board; (3) contribution from private sources; (4) earnings from admissions and other charges made for use of facilities; (5) miscellaneous revenues; and,

B. Estimated expenditures

Estimated Expenditures shall be divided as follows: (1) administrative payroll; (2) instructional and supervisory payroll; (3) custodial payroll; (4) supplies; (5) printing; (6) postage expense, freight, utility charges; (7) repairs; (8) rents; (9) equipment; (10) real estate and improvements; (11) miscellaneous expenditures.

C. Budget Submission

Such budget shall be submitted not later than September of each year to the Council and the School Board. Final decisions as to these contributions shall be reported back to the Board, which shall adjust the budget, if necessary. The expenses allowances, as finally approved by the Board, shall control the year's spending program, except that excess revenues received may be spent upon the approval of six (6) members of the Board. The Board shall not itself levy taxes or borrow money; and it shall not approve any claims or incur any obligations for

expenditures, unless there is unencumbered cash in the treasury to the credit of the Board, with which to pay the same.

Subd. 5. Finances of the Board.

A. For the purpose of financing the public recreation program authorized by this Section, there shall be established in the City accounts and treasury a special fund to be called the Recreation Fund. Into this Fund shall be placed the various revenues as enumerated in Subdivision 4 and from it shall be paid claims for various recreation expenditures as enumerated in Subdivision 4. All receipts belonging to the Board shall be deposited intact in a bank account to the credit of the Fund and no disbursement shall be made from this bank account except by check nor unless a verified claim for services and commodities actually rendered or delivered has first been submitted to and approved for payment by the Board, as authenticated by signature of the Chairperson and Secretary. The accounting of the Fund and the custody of the cash and the bank checking account shall be in the hands of the accounting officer and the treasurer, respectively, of the City. These officers shall make reports to the Board at reasonable intervals as determined by the Board. For purposes of budgeting, accounting, and reporting, the fiscal year of the Board and the Fund shall be the calendar year.

B. An audit of the funds shall be made annually. Such audit may be made independently of or in conjunction with any audit which may be made of the funds of the City or School District. The Board shall be authorized to establish charges or fees for the restricted use of any facilities or to make any phase of the recreation program wholly or partially self-sustaining. Any concessions or privileges may be sold after public advertising and competitive bidding. Any employees of the Board who handle cash in the process of collection shall be bonded.

Source: Ordinance No. 133, 3rd Series
Effective Date: 11-13-1998

SECTION 2.55. PARK ADVISORY BOARD.

Subd. 1. Establishment and Composition.

A Park Advisory Board composed of seven (7) members is hereby established.

Subd. 2. Duties.

The duties of the Park Advisory Board are to advise the Council as to the maintenance and improvement of the public parks and recreational facilities.

Source: Ordinance No. 33, 3rd Series
Effective Date: 05-30-1984

SECTION 2.56. (Repealed by Ordinance No. 146,3rd Series, adopted 09-12-2002.)

SECTION 2.57. WADENA DEVELOPMENT AUTHORITY.

Subd. 1. Establishment and Composition.

A Port Development Commission, to be known as the Wadena Development Authority, composed of seven (7) members is hereby established.

Subd. 2. Administration.

The Wadena Development Authority shall be governed through by-laws and rules of procedures as approved by the Council.

Subd. 3. Powers and Duties.

The duties of the Wadena Development Authority are to (1) promote the general welfare of the port district, and of the port as a whole; (2) strive to increase the volume of the port's commerce; (3) promote the efficient, safe, and economical handling of the commerce; and (4) provide or promote adequate docks, railroad and terminal facilities open to all on reasonable and equal terms for the handling, storage, care, and shipment of freight and passengers to, from, and through the port. The Wadena Development Authority shall carry out its powers and duties as set forth in MN Stat. §§ 469.048 to 469.068 (2004).

SECTION 2.58. HOUSING AND REDEVELOPMENT AUTHORITY.

Subd. 1. Establishment and Composition.

The Housing and Redevelopment Authority of Wadena, Minnesota, composed of five (5) members is hereby established. This Authority shall be the successor-in-interest to the Housing and Redevelopment Authority of Wadena previously established by Resolution under the Municipal Housing and Redevelopment Act (MN Stat.§462 et seq.; Repealed)

Subd. 2. Administration.

The Housing and Redevelopment Authority shall be governed through by-laws and rules of procedures as approved by the Council.

Subd. 3. Powers and Duties.

The powers and duties of the Housing and Redevelopment Authority are to promote the general welfare of the community by: (1) providing government assistance to redevelop substandard, slum, or blighted areas of the City where private enterprise would not act without government participation or subsidies, (2) providing decent, safe and

sanitary housing, (3) providing affordable housing for low income persons and their families, and, (4) renewing economic vitality through redevelopment. The Housing and Redevelopment Authority shall carry out its powers and duties as set forth in MN Stat. §§469.001 to 469.047 (2004).

Source: Ordinance No. 162, 3rd Series
Effective Date: 09-21-2005

(Sections 2.59 through 2.69, inclusive, reserved for future expansion.)

SECTION 2.70. DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.

Subd. 1. Disposal of Abandoned Motor Vehicles.

A. Definitions.

1. The term "abandoned motor vehicle" means a motor vehicle as defined in MN Stat., Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in MN Stat., Chapter 168, 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 the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

2. The term "junk vehicle" means a vehicle that is three years old or older; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission, is apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal only to the approximate value of the scrap in it.

3. The term "unauthorized vehicle" means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes but is not a junk vehicle or abandoned vehicle.

4. The term "vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

B. Custody.

The City may take into custody and impound any abandoned or junk motor vehicle, or any unauthorized vehicle as provided by statute.

C. Sale; Waiting Periods.

1. An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be a junk vehicle, except that it may

have a valid, current registration plate and still be eligible for disposal or sale; or an abandoned motor vehicle.

2. An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.

D. Notice.

1. When an impounded vehicle is taken into custody, the City or impound lot operator 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 lien holders of their right to reclaim the vehicle under Subparagraph E of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under statute shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Subparagraph F of this Subdivision.

2. The notice shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and to all readily identifiable lien holders of record. This information shall be made available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

E. Right to Reclaim.

1. The owner or any lien holder of an impounded motor vehicle shall have the right to reclaim such vehicle from the City or impound lot upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days as applicable under this Section after the date of the notice required by this Section.

2. Nothing in this Subdivision shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this Subparagraph 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. Auction or Sale.

1. An abandoned or unauthorized motor vehicle and contents taken into custody by the City or any impound lot and not reclaimed under Subparagraph E of this Subdivision may be disposed of or sold at auction or sale when eligible pursuant to Subparagraph E. 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 or unauthorized motor vehicle by the City or public impound lot, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the General Fund of the City.

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

G. Operator's Deficiency Claim. The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the cost of 25 days' storage for an abandoned or junk vehicle and 55 days' storage for a vehicle determined to be an unauthorized vehicle.

H. Disposal of Vehicles. Where no bid has been received for an abandoned or junk motor vehicle, the City may dispose of it in accordance with this Subdivision.

I. Contracts and Disposal.

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

2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.

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

Subd. 2. Disposal of Unclaimed Property

A. Definition. The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty 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, he/she shall serve written notice upon him/her at least thirty 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 him/her. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty days from the date of such notice.

C. Notice and Sale. 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. 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 in a legal newspaper at least 10 days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.

D. Funds and Claims Thereon. Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the General Fund of the City if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct said sale. The former owner, if he/she makes claim within six 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.

Source: Ordinance No. 120, 3rd Series
Effective Date: 06-05-1998

Subd. 3. Disposal of Excess Property.

A. Declaration of Surplus and Authorizing Sale of Property. The City Clerk-Treasurer 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, the value estimated and the City Clerk-Treasurer authorized to dispose of said property in the manner stated herein.

B. Surplus Property With a Total Estimated Value of Less than $100.00. The City Clerk-Treasurer may sell surplus property with a total value of less than $100.00 through negotiated sale.

C. Surplus Property With a Total Estimated Value Between $100.00 and $500.00. The City Clerk-Treasurer shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from $l00.00 to $500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the City Clerk-Treasurer's option. Such sale shall be by auction.

D. Surplus Property With a Total Estimated Value Over $500.00. The City Clerk-Treasurer shall offer for public sale, to the highest bidder, surplus property with a total estimated value over $500.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

E. Receipts From Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.

Subd. 4. Persons Who May Not Purchase - Exception.

A. No employee of the City, spouse or member of the immediate family of the employee, who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given.

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

SECTION 2.71. FRANCHISES.

Subd. 1. Definition.

The term "franchise" as used in this Section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Subd. 2. 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.

Subd. 3. 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 of Minnesota.

Subd. 4. 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:

A. That the grantee shall be subject to and will perform on its part all the terms of this Section and will comply with all pertinent provisions of any City Charter and City Code, as the same may from time to time be amended.

B. That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered and shall in all cases be fixed and

from time to time changed, unless regulated by an agency of the State of Minnesota, in the manner following:

1. 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.

2. If possible, maximum rates and charges shall be arrived at by direct negotiation with the Council.

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

C. That 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.

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

E. That 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.

F. That every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places 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 all facilities for whatsoever purpose used.

G. Every franchise shall contain a provision granting the City the right to acquire the same in accordance with statute.

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

Subd. 5. Further Provisions of Franchises.

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

SECTION 2.72. LOCAL IMPROVEMENT AND ASSESSMENT POLICY.

The Council may by resolution establish a local improvement and assessment policy, which may provide for waiver of specific provisions in instances of extreme hardship. Such policy may from time to time be amended by resolution.

SECTION 2.73. PERSONNEL RULES AND REGULATIONS.

The Council may, by resolution, establish personnel rules setting forth the rights, duties and responsibilities of employees. Such rules may from time-to-time be amended, but such amendments shall not be effective until thirty days after adoption thereof.

Source: City Code
Effective Date: 01-01-1979

SECTION 2.74. EMPLOYEE RESIDENCY.

Subd. 1. Purpose.

The Council recognizes its duty to, insofar as possible, protect the health, safety, and welfare of the residents of the City, and their property. In order to fulfill this responsibility it may be necessary, in times of individual need or widespread disaster giving rise to an emergency, to recall City employees. Thus this Section is adopted to require employee residency within a reasonable area or response time to meet such needs.

Subd. 2. Employees Affected.

The Chief and all other members of the Police and Fire Departments, and all Electric and Water Utilities employees, shall, for the purpose of this Section, be "affected employees".

Subd. 3. Residency.

The following areas or response times are hereby determined to be reasonable, and required within six (6) months after assuming City employment:

A. The area in which affected employees shall reside is within five (5) miles of the City limits.

B. All affected employees shall be able to reach the City Administrative Offices within ten (10) minutes by motor vehicle.

C. Any present City employee, now residing outside the area or response time specified in Subparagraphs A and B of this Subdivision who moves his/her residence in the future will be bound by this Subdivision.

Source: Ordinance No. 48, 3rd Series
Effective Date: 03-01-1985

SECTION 2.75. ACCOUNTS FOR FIRE OR EXPLOSION LOSSES.

The City may establish a trust or escrow account to hold proceeds from losses arising from fire or explosion of insured real property located within the City. The City may utilize these funds to secure, repair or demolish damaged or destroyed structures and clear the property in question, so that the structure and property are in compliance with local code requirements and applicable City Code provisions. Any unused portion of the retained proceeds shall be returned to the insured. In addition, the regulatory and procedural provisions of MN Stat. §65A.50, Trust or Escrow Accounts; Insured Real Property Fire or Explosion Loss Proceeds, are hereby incorporated herein and adopted by reference, including the penalty provision thereof.

Source: Ordinance No. 121, 3rd Series
Effective Date: 06-05-1998

SECTION 2.76. FRANCHISE FEE

Fee Schedule. In exchange for the franchise granted herein, Grantee shall collect from its customers located within the corporate limits of the City, and pay to the Grantor an

amount based on the following fee schedule, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered:

Customer Class	**Fee**
Residential	$2.00/Month/Customer
Commercial Firm	$5.00/Month/Customer
Commercial Interruptible	$20.00/Month/Customer
Industrial Firm	$20.00/Month/Customer
Industrial Interruptible	$20.00/Month/Customer

Plus percentage CPI adjustment which sums shall be increased each year on January 1st by the greater of:

A. three percent (3%) of the previous year's annualized Franchise Fee, or,

B. by an amount equal to the increase in the Consumer Price Index, ("CPI").

Subd. 1. Fee Increase Determination; CPI.

The CPI shall mean the "Consumer Price Index – for all Urban Consumers, all Cities, all Items (1967 = 100)" as published by the United States Department of Labor Statistics, or if such index shall be discontinued, the successor index, or if there be no successor index, such comparable index as mutually agreed upon by the parties. To determine the annual Franchise Fee increase to be paid by Tenant under a CPI adjuster, the annualized Franchise Fee for the previous year shall be multiplied by a percentage figure, computed from a fraction, the numerator of which shall be the CPI for the third quarter of the preceding year and the denominator of which shall be the CPI for the corresponding quarter of one year earlier. Such fraction shall be converted to a percentage equivalent. The resulting percentage fixture shall be multiplied by the previous year's rent.

Subd. 2. Notice to Franchisee.

The City shall communicate all Franchise Fee increases to the Company in writing the preceding December 1st of each year.

Source: Ordinance No. 169, 3rd Series
Effective Date: 06-23-2006

(Sections 2.77 through 2.98, inclusive, reserved for future expansion)

SECTION 2.99. VIOLATION A MISDEMEANOR.

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

Source: City Code
Effective Date: 01-01-1979

CHAPTER 3

MUNICIPAL AND PUBLIC UTILITIES -RULES AND REGULATIONS, RATES,CHARGES AND COLLECTIONS

SECTION 3.01. DEFINITIONS.

Subd. 1. Terms used in this Chapter

A. The term "utility" means all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

B. The term "municipal utility" means any City-owned utility system, including, but not by way of limitation, water, sewerage, electric, landfill and refuse service.

C. The terms "company", "grantee", and "franchisee" mean any public utility system to which a franchise has been granted by the City.

D. The terms "consumer" and "customer" mean any user of a utility.

E. The term "service" means providing a particular utility to a customer or consumer.

SECTION 3.02. FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.

All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, connection and meter reading fees, removal of any unlawful device, disconnection fees, reconnection fees including penalties for non-payment if any, 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.

SECTION 3.03. FIXING RATES AND CHARGES FOR PUBLIC UTILITIES.

All rates and charges for public utility franchisees, not regulated by an agency of the State, shall be fixed and determined by the Council and adopted by ordinance. Upon adoption such rates and charges shall become provisions of this Chapter. Public utility company rates and charges may be fixed and determined by the respective franchisees in compliance with this Section, as follows:

Subd. 1. Rates Approved by Council

No rate or charge involving an increase thereof shall become effective until approved by the Council. To request such increase the franchisee shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within ninety days of filing the petition),

and the reason or reasons necessitating the proposed increase or increases. Such petition shall be filed with the Council by serving the same on the City Administrator in person or by certified mail, return receipt requested.

Subd. 2. Approval, Hearing, Petition

Within thirty days of such filing the Council shall adopt a resolution and serve the same upon the resident superintendent of the franchisee in like manner as the petition may be served either approving the proposed increases or ordering a hearing thereon to be held within sixty days thereof. If no such action is taken by the Council, such increase or increases shall take effect on the date stated in the franchisee's petition as though approved by the Council.

Subd. 3. Examination of Books and Records

Prior to the hearing date, the franchisee shall, without delay, comply with the City's reasonable requests for examination and copying of all books, records, documents and other information, relating to the subject matter of the petition. Should the franchisee unreasonably delay, fail or refuse such requests, the same shall be grounds for a continuance of the hearing date.

Subd. 4. Notice

Notice of hearing shall be in the form and manner stated in the resolution. At the hearing all persons wishing to be heard thereon shall be afforded a reasonable opportunity. Findings and a decision shall be made by the Council within fifteen days after the hearing and served upon the franchisee.

SECTION 3.04. CONTRACTUAL CONTENTS.

Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this Chapter.

SECTION 3.05. RULES AND REGULATIONS OF MUNICIPAL UTILITIES.

Subd. 1. Billing, Payment and Delinquency.

All municipal utilities shall be billed monthly and a utilities statement or statements shall be mailed to each consumer each month. All utilities charges shall be delinquent if they are unpaid at the close of business on the l0th day following such billing, provided, that if the l0th day shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted. A penalty of five per cent (5%) thereof, or $l.00, which-

ever is greater, shall be added to, and become part of, all delinquent utility bills. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

Subd. 2. Application, Connection and Sale of Service.

Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

Subd. 3. Discontinuance of Service.

All municipal utilities may be shut off or discontinued whenever it is found that:

A. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith, or,

B. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof, or,

C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

Subd. 4. Ownership of Municipal Utilities.

Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

Subd. 5. Right of Entry.

The City has the right to enter in and upon private property, including buildings and dwellings houses, in or upon which there is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, or any part thereof, and for the purpose of connecting and disconnecting service.

Subd. 6. Accuracy.

All water and electric utilities service shall be supplied through a meter which shall accurately measure the amount thereof supplied to any consumer. The consumer shall provide for a metering area that is properly located, safe and readily accessible at all times for the installation of such meters. Meters shall be tested for accuracy by the City upon the request of any consumer who believes his meter to be inaccurate. If, upon test, it appears that such meter overruns to the extent of three per cent (3%) or more, the City shall pay the cost of such tests and shall make a refund for overcharges collected since the last known date of accuracy but for not longer than six months, on the basis of the extent of the inaccuracy found to exist at the time of the tests. If, upon test, it appears that such meter is slow to the extent of three per cent (3%) or more, the consumer shall pay for undercharges since the last known date of accuracy but for not longer than six months on the basis of the extent of the inaccuracy found to exist at the time of the test. If, when any meter is tested upon the demand of a consumer, it is found to be accurate or slow or less than three per cent (3%) fast, the consumer may be billed the reasonable cost of such testing. Any error in reading or computation of a utility account may be corrected for a period not to exceed one year prior to discovery of the error.

Subd. 7. Unlawful Acts.

A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.

B. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

D. It is unlawful for any person to "jumper" or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

Subd. 8. Municipal Utility Service Outside the City.

Premises located outside the established service area boundaries of the City shall not be connected to or served by any municipal utility, except such premises as are publicly owned or presently served. Persons needing municipal utility service whose

property is located outside the established service area boundaries of the City must initiate and complete annexation proceedings in advance prior to being provided with such service or services.

Subd. 9. Water Meters.

All water meters shall be owned by the City and installed in accordance with City policy as well as provisions of the City Code. Any meter damage by reason of abuse, neglect or freezing shall be billed to the customer or owner of the premises on which it occurs. This Subdivision shall apply to any meter required or installed under the provisions of the City Code.

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

Subd. 10. Municipal Utility Services and Charges a Lien.

A. Payment for all municipal utility services and charges (as that term is defined in City Code, Section 3.01) shall be the primary responsibility of the fee owner of the premises served and shall be billed to such owner unless otherwise contracted for and authorized in writing by the fee owner and any other person (such as a tenant, contract purchaser, manager,etc.), as agent for the fee owner, and consented to by the City of Wadena, Minnesota. If the utility service and charges are for a single metered multi-unit rental residential building, the owner of said building shall be the customer of record and this responsibility shall not be waived by contract or otherwise. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision.

B. Except as to the furnishing of retail natural, manufactured or mixed gas or electric service to or for the public, and to the extent otherwise authorized by State law, as set forth in Subparagraph C, below, each such account is hereby made a lien upon the premises served. All such accounts which are more than forty-five days delinquent may, when authorized by resolution of the Council, be certified by the City Administrator of the City of Wadena, Minnesota, to the County Auditor, and the City Administrator in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes.

C. As to the furnishing of retail natural, manufactured or mixed gas or electric service to or for the public, and to the extent otherwise authorized by State law, the City shall not (1) recover or attempt to recover payment for a tenant's outstanding bill or charge from a landlord, property owner or manager, or manufactured home park owner, or manufactured home dealer who has not contracted for the service; (2) condition service on payment of an outstanding bill or other charge for utility

service due upon the outstanding account of a previous customer or customers when all of the previous customers have vacated the property; or (3) place a lien on the landlord's or owner's property for a tenant's outstanding bill or charge. The City may recover or attempt to recover payment and place a lien on the property for a tenant's outstanding bill or charge from a property owner where the manager, acting as the owner's agent, contracted for the utility service.

Source: Ordinance No. 163, 3rd Series
Effective Date: 09-30-2005

SECTION 3.06. CONNECTION OR TAPPING PROHIBITED - DELINQUENT ASSESSMENTS OR CHARGES.

No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

(Sections 3.07 through 3.29, inclusive, reserved for future expansion.)

SECTION 3.30. RULES AND REGULATIONS RELATING TO SEWAGE SERVICE AND THE DETERMINATION AND LEVYING OF CHARGES FOR SUCH SERVICE.

Subd. 1. Definitions.

A. The following terms, as used in this Section, shall have the meanings stated:

1. "Act" - The Clean Water Act (33 U.S.C. 1251 et seq., as amended).

2. "Biochemical Oxygen Demand" (BOD) - (1) the quality of oxygen, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20 degrees Centigrade and (2) the standard test used in assessing wastewater strength.

3. "Building Sewer" - The extension from the building drain to the public sewer or other place of disposal (also called a house connection or service connection).

4. "Capital Costs" - All costs and expenses incurred in planning, designing, financing and constructing wastewater collection, conveyance and treatment facilities.

5. "Combined Sewer" - A sewer intended to serve as both a sanitary sewer and a storm sewer or as an industrial sewer and a storm sewer.

6. "Commercial User" - Any transient lodging, retail or wholesale establishments or places engaged in selling merchandise for personal, household or industrial consumption and/or rendering service to others.

7. "Compatible Pollutant" - Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the treatment facilities are designed to treat such pollutants and, in fact, do remove such pollutants to a degree which complies with effluent concentration limits imposed by the permit. Examples of additional pollutants which may be considered compatible are (1) chemical oxygen demand, (2) total organic carbon, (3) phosphorus and phosphorus compounds, (4) nitrogen and nitrogen compounds and (5) fats, oils and greases of animal and vegetable origin (except as prohibited where these materials would interfere with the operation of the facilities).

8. "Construction" - Any one or more of the following: preliminary planning; engineering, architectural, legal, fiscal or economic investigations, studies, surveys, designs, plans, working drawings, specifications or procedures; erection, building, acquisition, alteration, remodeling, improvement or extension of facilities; or the inspection or supervision of any of the foregoing.

9. "Debt Retirement Costs" - The combined principal and interest payments necessary to pay bonded indebtedness.

10. "Domestic User" - Dwelling units such as detached or semi-detached, and row houses, mobile homes, apartments and permanent multi-family dwellings (transient lodging facilities excluded).

11. "Domestic Wastewater" - Wastewater generated principally by domestic activities, and shall, by definition, have the following characteristics:

BOD-5	245 mg/l or less
Suspended Solids	230 mg/1 or less

It may or may not contain groundwater, surface water or storm water.

12. “Flow" - The quality of wastewater, expressed in gallons or cubic feet, per period of time.

13. “Garbage" - Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the commercial handling, storage and sale of produce.

14. “General Municipal User” - Any user discharging wastewater to the municipal system other than industrial users. This term includes Domestic, Commercial, Governmental and Institutional Users.

15. "Governmental User" - Those establishments whose function is the administration and/or execution of governmental programs as well as the offices of executives, legislative bodies and agencies which provide general support services for government.

16. "Incompatible Pollutant" - Any pollutant that is not defined as a compatible pollutant, including non-biodegradable solids.

17. "Industrial User" - Manufacturing establishments whose activity involve the chemical or mechanical transformation of materials or substances into other products. These activities occur in installations usually described as plants, mills and factories.

18. "Industrial Waste" - Wastewater generated by an industry that includes solids, liquid or gaseous waste resulting from an industrial or manufacturing process, trade or business or from the development, recovery or processing of any natural resources.

19. "Infiltration" - The water entering the sewerage system, including building drains, from the ground through such means as defective pipe, joints, connections and manhole walls.

20. "Infiltration/Inflow" - The total quality of water from infiltration and inflow sources, without distinguishing the source.

21. "Inflow" - The water discharged into the sewage system, including building drains, from such sources as roof leaders; cellar, yard and area drains; foundation drains; unpolluted cooling water discharges; drains from springs and swampy areas; manhole covers; cross-connections from storm sewers; catch basins, surface runoff; street wash water or drainage.

22. "Institutional User" - Establishments such as social, charitable, religious and educational facilities, including schools, churches, hospitals, nursing homes and penal institutions.

23. "Load" - Quantities of wastewater characteristics, such as BOD, suspended solids and other constituents, expressed as milligrams per liter (mg/l) or pounds per twenty-four hours (lbs./24 hrs.).

24. "Monitoring" - The measurement, sometimes continuous, of water or wastewater quality.

25. "National Pollutant Discharge Elimination System Permit" or "NPDES Permit" - The instrument issued for the discharge of pollutants from point sources into manageable waters pursuant to Sections 402 and 405 of the Act.

26. "Natural Outlet" - Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

27. "Operation, Maintenance and Replacement Costs" or "O, M & R Costs" - All costs, direct or indirect, (except Debt Retirement Costs) necessary to insure the continued operation, maintenance, replacement and management of the total sewage system.

28. "pH" - The reciprocal of the logarithm of the hydrogenation concentration. The concentration is the weight of hydrogen ions in grams per liter of solution.

29. "Pretreatment" - The application of physical, chemical and biological processes to reduce the amount of pollutants in, or alter the nature of the pollutant properties in, the wastewater prior to discharging the wastewater into the sewage system.

30. "Public Sewer" - Any sewer, pumping station or forcemain owned or operated by a unit or agency of government.

a. "Collector Sewer" or "Lateral Sewer" - A sewer whose primary purpose is the collection of wastewater from individual users.

b. “Interceptor Sewer” - A sewer whose primary purpose is the conveyance of the collected wastewater to the treatment facility.

c. "Forcemain" - A pipe in which wastewater is conveyed under pressure.

d. "Pumping Station" or "Lift Station" - A facility provided in the public sewer system to pump wastewater to a higher elevation.

31. "Replacement" - Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

32. "Sanitary Sewer" - A sewer intended to convey only sanitary or sanitary and industrial wastewater, and to which the introduction of infiltration and inflow is intentionally limited.

33. "Sanitary Wastewater" or "Sanitary Sewage" - A combination of liquid and water-carried wastes discharged from toilets and other sanitary plumbing facilities.

34. "Sewage" or "Wastewater" - The water-carried waste products from residences, commercial buildings, industrial establishments and institutions, including the excrementitious or other discharges from the bodies of humans or animals, together with such infiltration and inflow as may be present.

35. "Sewer Service Charge" - The method of cost recovery whereby the City derives the funds to meet Debt Retirement Costs and Operation, Maintenance and Replacement Costs for the sewerage system and treatment facility.

36. "Sewage System" - The overall system of public sewers and the wastewater treatment facility, provided for the means of collecting, conveying, treating and disposing of wastewater and the system of pipelines, conduits, pumping stations, forcemains and all other devices and appliances appurtenant thereto for the purpose of collecting or conveying sewage, industrial wastes or other wastes to a point of treatment and disposal.

37. "Significant Industrial User" - Any industrial user of the wastewater treatment facility whose flow (1) exceeds 25,000 gallons per average work day or (2) has exceeded five percent (5%) of the total flow received at the treatment plant during any day in the previous year; (3) whose waste contains a toxic pollutant in toxic amounts, as defined by Section 307 (a) of the Act; or (4) whose discharge has a significant effect, either individually or in combination with

other contributing industries, on the City's sewage system or the quality of the effluent.

38. "Slug" - Any discharge of wastewater which, in concentration of any given constituent or in quantity of flow, exceeds, for any period longer than 15 minutes, more than five (5) times the average 24-hour concentration, quantity or flows during normal concentration.

39. "Storm Sewer" - A sewer which carries storm or surface water but from which sewage and industrial wastes, other than unpolluted cooling water, is excluded.

40. "Suspended Solids" or "SS" - Solids that float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtration conducted in accordance with standard procedures.

41. "Treatment Facility" or "Treatment Plant" - The structures, equipment, devices and processes required for the reduction, storage, treatment, separation and disposal of sewage and industrial wastes and the handling and disposal of accumulated residual solids.

42. "User" - Any person, whether municipal or otherwise, discharging into the sewage system.

43. "Useful Life" - The estimated period during which a treatment facility, or portions thereof, will be operated.

44. "User Charge" - A charge levied on users of a treatment facility to recover the user's proportionate share of the costs of operation, maintenance and replacement of such facility.

45. "Watercourse" - A natural or artificial channel for the passage of water, either continuously or intermittently.

Subd. 2. Use of Public Sewers Required.

It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste; nor shall sewage or other polluted water be discharged to any natural outlet or watercourse, except where suitable treatment has been provided in accordance with the subsequent provisions in this Section and the NPDES permit. Except as hereinafter provided, no privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage shall be constructed or maintained within the City or its jurisdiction; sewer connections shall be required to all premises in accordance with Section 10.04 of the City Code.

Subd. 3. Building Sewers and Connections.

It is unlawful for any unauthorized person to uncover, make any connections with, or open into, use, alter, or disturb any public sewer, or appurtenance thereof, without first obtaining a written permit from the City. Building sewer connection permits shall be issued only after approval of an application for permit filed with the City Administrator and accompanied by any plans, specifications or other information considered pertinent in the judgment of the Council. Industrial users seeking connection to the sewer system, as a condition of permit issuance, shall provide information describing the characteristics, constituents and quantity of the discharge. Permits will be issued only if it can be demonstrated that downstream sewage system facilities have sufficient reserve capacity to accept the additional, anticipated flow and load. All costs and expense incident to the installation and connection of a building sewer shall be borne by the owner, who shall also indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation.

A. A separate and independent building sewer shall be provided for each and every building, except where installation circumstances preclude the implementation of this requirement; in which case the Council may allow an alternate installation. Old building sewers may be used in connection with new buildings only when they are determined, by examination and test by the City, to meet all requirements of this Section.

B. The size, kind, depth, slope, alignment and methods to be used for building sewer installation, and the connection of the building sewer into the public sewer, shall comply with the requirements of the State Building and Plumbing Codes or other applicable rules and regulations of the City. The minimum size pipe, when placed underground, shall be four (4) inches in diameter. Building sewer connections to public sewer shall be demonstrated by testing to be gas tight and water tight. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, boulevards and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

C. Whenever possible, the building sewer shall be brought to the building at an elevation below the lowest floor. In existing buildings, in which the lowest, served floor of the building is too low to permit gravity flow to the public sewer, sanitary sewage may be lifted by an approved means for discharge into the building sewer. It is unlawful for any person to make a connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of groundwater or surface runoff to a building sewer, or to any interior plumbing system connected directly or indirectly to the building sewer or the public sewer.

Subd. 4. Use of Public Sewer.

All users of the public sewer shall comply with the following:

A. It is unlawful for any person to discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, sub-surface drainage, uncontaminated cooling water or unpolluted industrial process water to a sanitary sewer. Stormwater and all other non-polluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to natural outlets and watercourses. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City, to a storm sewer, natural outlet or watercourse.

B. It is unlawful for any person to discharge or cause to be discharged any of the following described water or wastes to any public sewer:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

2. Any water containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injury or interfere with any treatment process, constitute a hazard to humans or animals, create a public nuisance or do harm to the water receiving the wastewater treatment plant effluent, consistent with 307(A) of the Act.

3. Any waters or wastes having a pH lower than 5.5 or higher than 9.5, or having corrosive properties capable of causing damage or hazard to structures, equipment or personnel involved with the sewage system.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or interference to, ashes, cinders, shavings, sand, mud, straw, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Any liquid or vapor having a temperature in excess of 150 degrees Fahrenheit (65 degrees Centigrade).

6. Any waters or wastes containing fats, oils or grease, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (0 and 65 degrees Centigrade).

7. Any garbage that has not been properly shredded so that all particles are carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 3/8 inch in any direction.

C. It is unlawful for any person to discharge or cause to be discharged the following described substances, materials, waters or wastes, if it appears likely in the opinion of the City that such wastes can harm either the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can oth-

erwise endanger life, limb, public property, or constitute a nuisance. In forming the opinion as to the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, the City's NPDES permit, and maximum limits established by regulatory agencies. The substances prohibited are:

1. Any waters or wastes containing strong, acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not.

2. Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits as may be established by the City for such materials.

3. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.

4. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.

5. Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time except as permitted by the City in compliance with applicable State and Federal regulations.

6. Any cyanide in excess of 0.0025 mg/l at any time except as permitted by the City in compliance with applicable State and Federal regulations.

7. Materials which exert or cause:

a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

b. Excessive discoloration (such as, but not limited to, sodium chloride and sodium sulfate);

c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;

d. Unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

8. Waters or wastes containing substances which are not amenable to treatment to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

D. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in Subparagraphs B and C of this Subdivision, and/or which are in violation of the standards for pre-treatment provided in 40 CFR 403, as amended, and which in the judgment of the City may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may: (1) reject the wastes; (2) require pre-treatment to an acceptable condition for discharge to the public sewers; (3) require control over the quantities and rates of discharge; and/or (4) require payment to cover the added costs of handling and treating the wastes or the sludge therefrom, not covered by existing sewer charges under the provisions of Subdivision 5 of this Section. If the City permits the pre-treatment or equalization of waste flows, the design and installation of such plants and equipment shall be subject to review and approval of the City and subject to the requirements of all applicable codes, City Code provisions, and laws.

E. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.

F. Where pre-treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

G. If, and when required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with the plans approved by the City. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible. Access to the control manhole shall be provided at all reasonable times for the purpose of inspection, sampling or other performance of duty by City or regulatory agency personnel.

H. Duly authorized employees or agents of the City, bearing proper identification and credentials, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing pertinent to discharges to the sewer system. City employees and agents are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater system; except that, if the industry establishes that the revelation to the public of the information in question might result in an advantage to competition, the industry may withhold such information. City employees and agents shall similarly be permitted to enter all private properties through which the City holds a duly negotiated agreement, for the purpose of inspection, testing, observation, measurement, sampling, repair and maintenance of any portion of the sewage system lying within said easement. All entry and subsequent work, if any, on said easement shall be undertaken in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

I. The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analysis of waters and wastes to illustrate compliance with this Section and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of laboratory analysis to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analysis to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analysis and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an outside laboratory service.

J. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this Section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

K. No statement contained in this Subdivision shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by

the City for treatment, subject to payment therefor, in accordance with Subdivision 5 hereof, and the pre-treatment requirements outlined in 40 CFR 403, as amended.

L. It is unlawful for any person to maliciously, willfully or negligently break, damage, destroy, or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

M. Any person found violating any provision of this Subdivision shall be served written notice by the City stating the nature of said violation and providing a reasonable time limit for the satisfactory correction thereof. The offender who, within the period of time stated in such notice, does not permanently cease all violations shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in an amount not to exceed $100.00 for each violation. Each day in which the violation occurs shall be deemed a separate offense. In addition, any person violating any provision of this Subdivision shall become liable to the City for any expense, loss or damage occasioned the City by reason of said violation.

N. Each residential household, commercial establishment, industry or other person shall pay to the City the amounts established for sewer service, as determined in accordance with Subdivision 5 hereof. Any building which is privately owned, whether occupied or not, shall be subject to this payment unless the water service is discontinued.

Subd. 5. Sewer Service Charges.

The Sewer Service Charge for the use of, and for the service supplied by, the sewage of the City shall consist of the sum of a user charge for operation, maintenance and replacement; a debt retirement charge; and a surcharge, if applicable.

A. The User Charge shall be based on water usage as recorded by water meters and/or sewage meters for wastes having concentrations equal to, or less than, the following:

1. A five day, 20 degree Centigrade (20 Centigrade) biochemical oxygen demand (BOD) of 245 mg/l.

2. A suspended solids (SS) content of 230 mg/l.

The charge shall be computed as follows: Unit costs for Flow, BOD and SS shall be calculated by allocating the total annual OM&R costs to the three parameters in proportion to that share of the cost attributable to each. The User Charge shall be the sum of the products obtained by multiplying the unit costs by the Flow, BOD and SS constituents in l00 cubic feet of domestic waste, as follows:

$$UC = \frac{FC}{F} + \frac{BC}{B} \left(\frac{BA}{S}\right) + SC\,(SA)$$

Where:

UC	=	User charge per 100 cu. ft. of wastewater.
FC	=	That portion of the annual OM&R cost attributable to Flow
F	=	Total Flow to be received at the treatment plant in a given year, in 100 C.F.
BC	=	That portion of the annual OM&R cost attributable to BOD.
BA	=	The number of pounds of BOD in l00 C.F. of domestic flow (l.53 lbs./l00 C.F.)
B	=	Total BOD to be received at the treatment plant in given year, in lbs.
SC	=	That portion of the annual OM&R cost attributable to SS.
SA	=	The number of pounds of BOD in l00 C.F. of domestic flow (l.44 lbs./l00 C.F.).
S	=	Total SS to be received at the treatment plant in a given year, in lbs.

B. Debt Retirement Charges shall be based on water usage for wastes having concentrations equal to or less than those listed in Subparagraph A, above. Debt Retirement unit costs for Flow, BOD and Suspended Solids shall be calculated by allocating the total annual debt retirement costs to the three parameters in proportion to that share of the cost attributable to each. The Debt Retirement Charge shall be the sum of the products obtained by multiplying the unit costs by the Flow, BOD and SS constituents in 100 C.F. of domestic waste, as follows:

$$DC = \frac{FD}{F} + \frac{BD}{B}\,(BA) + \frac{SD}{S}\,(SA)$$

Where:

DC	=	Debt Retirement Charge per l00 C.F. of wastewater.
FD	=	That portion of the annual debt retirement costs attributable to Flow.
F	=	Total flow to be received at the treatment plant in a given year, in 100 C.F.
BD	=	That portion of the annual debt retirement costs attributable to BOD.
BA	=	The number of pounds of BOD in l00 C.F. of domestic flow.

Where:

B	=	Total BOD to be received at the treatment plant in a given year, in lbs.
SD	=	That portion of the annual debt retirement costs attributable to SS.
SA	=	The number of pounds of SS in l00 C.F. of domestic flow.
S	=	Total SS to be received at the treatment plant in a given year, in lbs.

C. A surcharge shall be levied to all users whose waste discharges exceed the maximum wasteload contributions for BOD (1.53 lbs./l00 C.F.) and SS (1.44 lbs./ 100 C.F.) listed in Subparagraph A, above. The surcharge shall be based on applying the user charge unit charges for BOD and SS to the amount of each of these constituents discharged by the user in excess of 1.53 lbs./100 C.F. and 1.44 lbs./ 100 C.F., respectively, as follows:

$$XC = \frac{BC}{B}\ (BX - l.53) + SC\ (\frac{SX}{S} - l.44)$$

Where:

XC	=	Amount of surcharge per 100 cu. ft. of wastewater.
BX	=	The BOD wasteload contribution in excess of 1.53 lbs./l00 C.F.
SX	=	The suspended solids wasteload contribution in excess of 1.44 lbs./100 C.F.

All other notations as in Subparagraphs A and B, above.

D. Sewer Service Charges shall be computed by summing the component charges and multiplying by the recorded wastewater discharge, as follows:

$$SSC = V\ (UC + DC + XC)$$

Where:

SSC	=	The Sewer Service Charge per billing.
V	=	Volume of wastewater recorded during the billing period.

All other notations as in Subparagraphs A, B and C, above.

Subd. 6. Metering.

Charges shall be computed on the basis of the quantity of water used by user, as measured by the City water meter on the premises; provided, however, that in determining the charge to be paid for premises occupied by residential users, the water meter read-

ings for the first quarter of each year may be used for the computation of sewer service charges for each billing period of that year.

A. If a portion of the water furnished to any premises is not directly or indirectly discharged into the City's sewage system, the quantity of such water shall be deducted in computing the sewer service charge; provided that a separate meter may be required to be installed and operated to register the quantity so not discharged to the sewage system. Such adjustment may be made as shall be fair and equitable in order to determine the sewer service charge; but until such adjustment shall be effected, that water consumption basis hereinbefore prescribed shall remain in full force and effect.

B. If any premises discharges wastewater into the City's sewage system, either directly or indirectly, and obtains 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 wastewater into its sewage system only when the owner of such premises, or some other interested party shall, at his/her 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. Each water meter shall be installed to measure all water received on such, and the sewer service charges shall be computed from the quantity of water received, as measured by such meter.

Subd. 7. Billing.

A. Sewer Service Charges shall be computed and billed monthly; except that the City may, if it so chooses, render bills to residential users on a quarterly basis. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises, and service is furnished by the City only upon this condition.

B. Users of the City's sewer system shall annually be advised, in conjunction with a regular billing, regarding the portion of the Sewer Service Charge which is attributable to the operation, maintenance and replacement costs associated with the treatment facility.

Subd. 8. Revenues and Accounts.

A. All revenues and moneys derived from the operation of the sewage system shall be deposited in a sewage fund. All such revenues and moneys shall be held by the City Administrator separate and apart from their private funds and separate and apart from all other funds of the City. The City Administrator shall receive all such revenues from the sewage system, and all other funds and moneys incident to the operation of such system, as the same may be delivered to him and deposit the same in the amount of the fund designated as the "Sewage Fund of the City". Said

City Administrator shall administer such fund in every respect in the manner provided by statute.

B. The City Administrator shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the sewage system, and at regular annual intervals he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewage system. In addition to the customary operating statements, the annual report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the cost recovery system do in fact meet the requirements of this Section. In this regard, the financial information to be shown in the audit report shall include the following:

1. Flow data showing total gallons received at the wastewater plant for the current fiscal year.

2. Billing data to show total number of gallons billed.

3. Debt retirement cost for the succeeding fiscal year.

4. Operation, maintenance and replacement funding requirements for the succeeding fiscal year.

5. Number of users discharging non-domestic wastes (including users) and volume of waste discharged.

C. The City Administrator shall annually review the user charge system to accomplish the following:

1. Maintain the proportionate distribution of operation, maintenance and replacement costs among users and user classes.

2. Generate sufficient revenue to pay the total operation, maintenance and replacement costs necessary for the treatment facility.

3. If necessary, apply excess revenues from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the class rates accordingly.

D. The U.S. Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City system of user charges for the purpose of making audit,

examination, excerpts and transactions thereof to insure compliance with the terms of the Special and General Conditions to any Federal Grant.

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

(Sections 3.31 through 3.39, inclusive, reserved for future expansion.)

SECTION 3.40. RULES AND REGULATIONS RELATING TO WATER SERVICE.

Subd. 1. Deficiency of Water and Shutting Off Water.

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

Subd. 2. Repair of Leaks.

It is the responsibility of the consumer or owner to maintain the water service from the main into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his service pipe within twenty-four (24) hours after written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off or disconnected if the repair is not proceeded with immediately. In the event of non-compliance with this Subdivision necessitating disconnection by the City, the consumer or owner of the premises shall be billed therefor and the amount thereof shall become a part of the utility charges.

Subd. 3. Abandoned Service Penalties.

All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of the excavation. The City shall inspect and approve the actual disconnection. When new buildings are erected on the site of old ones, and it is desired to increase the old water service, a new permit shall be taken out. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing such pipe from the main. Also, such improper disposition shall be borne by the person causing or allowing such work to be performed.

Subd. 4. Service Pipes.

Every service pipe shall be of a material and rating which is in accordance with City Regulations and all other applicable Codes and must be laid in such a manner as to prevent rupture by settlement. The service pipe shall be placed not less than eight feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the main and the building shall be the responsibility of the owner. Service pipes shall extend from the curb stops to the inside of the build-

ing; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. Valves, the same size as the service pipe, shall be placed close to the inside wall of the building, on both sides of the meter and well-protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for a service up to seventy feet in length. All joints shall be left uncovered until water pressure is applied and inspected. Minimum size connection with the water mains shall be 3/4 inch in diameter.

Subd. 5. Private Water Supplies.

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

Subd. 6. Restricted Hours for Sprinkling.

Whenever the City shall determine that a shortage of water threatens the City, it may limit the times and hours during which water may be used from the City water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof.

Subd. 7. Private Fire Hose Connections.

Owners of structures with self-contained fire protection systems may apply for and obtain permission to connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the Council may adopt by resolution as herein provided.

Subd. 8. Opening Hydrants.

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

Subd. 9. Unmetered Service.

Unmetered service may be provided for construction, flooding skating rinks, and any other purpose. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; provided, however, that by acceptance thereof the consumer agrees to have the City estimate the water used. In so estimating the City shall consider the use to which the water is put and the length of time of unmetered service.

Subd. 10. Code Requirement.

All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of water service to any consumer.

Subd. 11. Connection Fees.

Service shall be furnished only after proper application has been made and connection fees paid in full.

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

(Sections 3.41 through 3.49, inclusive, reserved for future expansion.)

SECTION 3.50. RULES AND REGULATIONS RELATING TO ELECTRIC SERVICE

Subd. 1. Code Requirement.

All wiring, connections and appurtenances shall be installed and performed strictly in accordance with the National Electrical Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of electrical service to any consumer.

Subd. 2. Services.

In new or changed service installations, the decision as to whether it shall be placed underground, overhead, or, the financial responsibility of the City or the consumer, shall be guided by the written policy of the City.

Subd. 3. Electrical Installations.

All electrical installations shall comply with the following, where applicable:

A. Motors of 20 HP or more must have line compensators on same. Provided, however, that the City may, at its option, make an exception if the total connected motor load required is smaller than the consumer connected load, and the motor starting current is less than the current corresponding to the consumer's total connected load.

B. All motor installations of over 1/2 HP shall be served by a minimum of 240 volts and all motors in excess of 5 HP shall be three-phase.

C. The City shall make an installation charge for extraordinary expenses required by a consumer.

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

(Sections 3.51 through 3.59, inclusive, reserved for future expansion.)

SECTION 3.60. RULES AND REGULATIONS RELATING TO REFUSE COLLECTION AND DISPOSAL.

Subd. 1. Definition.

The term "refuse" means and includes all drained organic material resulting from the preparation of food and spoiled or decayed food from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, and tree or lawn clippings.

Subd. 2. Storage and Transporting Refuse.

A. It is unlawful for any person to store refuse except as herein provided.

B. It is unlawful for any person to transport refuse over any street, for hire, except by special permit from the Council, or acting within the course and scope of a written contract with the City, or his employment with the City.

C. It is unlawful for any person to transport refuse on any street unless it is carried in a vehicle equipped with a leak-proof body or container and completely covered with a heavy canvas or top to prevent loss of contents.

Subd. 3. Containers.

All refuse shall be stored in clean, rust-resistant, water-tight, non-absorbent and washable closed containers, approved for the purpose by the City. Provided, however, that tree clippings may be stored in tied bundles no longer than four feet and lawn clippings and paper may be stored in containers protected from wind and other elements.

Subd. 4. Collection and Disposal of Refuse.

The City shall provide for collection and disposal of all refuse in a sanitary manner to insure the health, safety and general welfare of its residents, under such terms and conditions as the City may, from time to time, deem appropriate.

Subd. 5. Property of the City.

All materials at public disposal sites are the property of the City. It is unlawful for any person to separate, collect, carry off or dispose of such materials except by direction of the City.

Subd. 6. Disposal Site.

Privately hauled non-refuse disposal from households, and refuse and non-refuse disposal from commercial establishments, may be deposited at the disposal site upon payment of charges therefor.

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

(Sections 3.61 through 3.98, inclusive, reserved for future expansion.)

SECTION 3.99. VIOLATION A MISDEMEANOR.

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

Source: Ordinance No. 88, 3rd Series
Effective Date: 11-28-1991

CHAPTER 4

CONSTRUCTION AND HOUSING LICENSING, PERMITS AND REGULATION

SECTION 4.01. (Reserved for future expansion)
(Repealed by Ordinance No. 16, 3rd Series, adopted 05-27-1981.)

SECTION 4.02. Repealed by Ordinance No. 16, 3rd Series, adopted 05-27-1981

SECTION 4.03. BUILDING AND USE PERMITS.

Subd. 1. General.

Except as hereinafter provided, no person shall construct, erect, alter, wreck or move any building or structure or parts thereof without first securing a building permit from the City. It shall not be necessary to secure a building permit in order to alter, repair or otherwise change the interior of any residential building provided the proposed alteration, repair, or change will not affect the exterior dimension of such building or change the existing use and occupancy thereof.

Subd. 2. Application.

Application for a building permit shall be made to the Zoning Administrator on blank forms to be furnished by the City. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications shall contain such other information as may be deemed necessary for the proper enforcement of the City Code.

Subd. 3. Fees.

The fee for a building permit shall be determined by the Council.

Source: Ordinance No. 130
Effective Date: 12-23-1971

Subd. 4. Issuance.

The Zoning Administrator shall determine that the building plans together with the application comply with all the terms of the City Code, in which event, he/she shall execute a certificate of approval and file same with the Planning Department. Upon the filing of such certificate and payment by the applicant or permit fee established by the Council, the Planning Director shall issue the building permit.

Source: Ordinance No. 174
Effective Date: 06-21-1978

Subd. 5. Certificate of Zoning Compliance.

A. A certificate of zoning compliance shall be obtained before any building hereafter erected or structurally altered is occupied or the use of any such building is altered.

B. Application for a certificate of zoning compliance for a new building or for existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit as required in Subdivision 2 of this Section.

C. Every certificate of zoning compliance shall state that the building or proposed use of a building or land complies with all provisions of law and the City Code. A record of all certificates of zoning compliance shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

SECTION 4.04. PLANS AND SPECIFICATIONS.

Subd. 1. Requirement.

With each application for a building permit, and when required by the Building Inspector for enforcement of any provisions of the City Code, two sets of plans and specifications shall be submitted. The Building Inspector may require plans and specifications to be prepared and designed by an engineer or architect licensed to practice as such in the State of Minnesota.

Subd. 2. Not Required.

When authorized by the Building Inspector plans and specifications need not be submitted for the following: (1) one story buildings of Type V conventional woodstud construction with an area not exceeding 600 square feet; (2) Group J, Division 1, Occupancies of Type V conventional woodstud construction; (3) small and unimportant work.

Subd. 3. Information on Plans and Specifications.

Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of the City Code and all relevant laws, rules and regulations. The first sheet of each set of plans shall give the street address of the work and the name and address of the owner and person who prepared them. Plans shall include a plot plan showing the location of the proposed building and every existing building on the property. In lieu of detailed specifications, the Building Inspector may approve references on the plans to a specific section or part of the City Code or other laws. Computations, stress diagrams and other data sufficient

to show the correctness of the plans, shall be submitted when required by the Building Inspector.

Subd. 4. Retention of Plans.

One set of approved plans, specifications and computations may be retained by the Building Inspector for a period of not less than ninety days from the date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress. Plans submitted for checking, for which no permit is issued, and on which no action is taken by the applicant for ninety days, shall be returned to the last known address of the applicant; to renew action on such plans, a payment of a new plan-check fee shall be required.

Subd. 5. Validity.

The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the City Code. No permit presuming to give authority to violate or cancel the provisions of the City Code shall be valid, except insofar as the work or use which it authorizes is lawful.

Subd. 6. Corrections.

The issuance of a permit based upon plans and specifications shall not prevent the Building Inspector from thereafter requiring the correction of errors in said plans and specifications or from preventing building or construction operations being carried on thereunder when in violation of the City Code.

SECTION 4.05. FEES, CHARGES AND REQUIREMENTS.

Subd. 1. Basic Fee.

Basic fees for building permits and inspections 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 Inspector, 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 Inspector. Such fee schedule may provide for a separate building or electrical permit and inspection fee where the work to be done is so confined.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Start Without Permit.

Where work for which a permit is required is started or pursued prior to issuance of a permit, the fees shall be doubled, or the fee will be set by the Council by a resolution for the appropriate permit. But the payment of such increased fee shall not relieve any persons from fully complying with the requirements of the law in the execution of the work, nor from any penalties prescribed therein.

Source: Ordinance No. 151, 3rd Series
Effective Date: 01-23-2004

Subd. 3. Plan Checking Fees.

When the valuation of the proposed construction exceeds $l,000.00 and a plan is required to be submitted, a plan checking fee shall be paid at the time of submitting plans and specifications for checking. Such plan checking fee shall be equal to one-half of the basic building permit fee.

Subd. 4. (Repealed by Ordinance No. 49, 3rd Series, adopted 2-l3-85.)

Source: City Code
Effective Date: 01-01-1979

SECTION 4.06. PERMITS AND REQUIREMENTS FOR MOVING BUILDINGS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. "Highway" means a public thoroughfare for vehicular traffic which is a State trunk highway, County State-aid highway, or County road.

B. "Street" means a public thoroughfare for vehicular traffic which is not a State trunk highway, County State-aid highway or County road.

C. "Moving Permit" means a document allowing the use of a street or highway for the purpose of moving a building.

D. "Highway Moving Permit" means a permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of such movement.

E. "Street Moving Permit" means a permit to move a building on a street for which a fee is charged which does include route approval, together with use of the

street and activities including, but not limited to, repairs or alterations to a municipal utility required by reason of such movement.

F. "Combined Moving Permit" means a permit to move a building on both a street and a highway.

Subd. 2. Application.

The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of such movement. In the case of a street moving permit or combined moving permit the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of such movement.

Subd. 3. Permit and Fee.

The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota, except that a permit may be issued to a person moving his own building, or a person moving a building which does not exceed 16 feet in width, 20 feet in length, or 14 feet in loaded height. Nor shall a license be required of farmers moving their own farm buildings, nor of persons moving manufactured or modular homes. Fees to be charged shall be separate for each of the following: (1) a moving permit fee to cover use of streets and route approval, and (2) a fee equal to the anticipated amount required to compensate the City for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. All permit fees shall be paid in advance of issuance.

Subd. 4. Unlawful Acts.

A. It is unlawful for any person to move a building on any street without a moving permit from the City.

B. It is unlawful for any person to move a building on any highway without a highway moving permit from the City.

C. It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the City, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of such payment with the City.

Source: Ordinance No. 89, 3rd Series
Effective Date: 12-20-1991

(Sections 4.07 through 4.09, inclusive, reserved for future expansion.)

SECTION 4.10. UNSAFE BUILDINGS.

Subd. 1. Definition and Abatement.

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment, as specified in the City Code or any other law, are, for the purpose of this Section, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal, in accordance with the procedure specified herein.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Powers of Building Inspector.

The Building Inspector shall examine every building or structure or portion thereof reported as dangerous or damaged and, if found to be an unsafe building, the Building Inspector shall give the owner of the building written notice stating the defects therein. The notice may require the owner or person in charge of the premises, within forty-eight hours, to commence either the required repairs or improvements or demolition and removal of the building, structure or portions thereof. All such work shall be completed within ninety days from the date of notice unless otherwise stipulated by the Building Inspector. If necessary, the notice shall also require the building, structure, or a portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the Building Inspector. Upon certification by the Building Inspector that a building or structure presents an immediate danger to the health and safety of persons in the community, the City may take immediate action to provide for the emergency evacuation and securing of a building, with notice to the owner or person in charge of the premises as set forth in this Chapter.

Subd. 3. Service of Notice to Owner.

Proper service of the required notice shall be by personal service upon the owner of record, if he/she shall be found within the City. If he/she is not found therein, service may be made upon the owner of record by registered mail or certified mail, provided, that if the notice is by registered mail or certified mail, the designated period within

which the owner or person in charge is required to comply with the order of the Building Inspector shall begin as of the date of delivery shown upon the return receipt.

Subd. 4. Posting of Signs.

The Building Inspector shall cause to be posted at each entrance to such building a notice to read: DO NOT ENTER, UNSAFE TO OCCUPY. Building Department, City of Wadena." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the Building Inspector and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

Subd. 5. Right to Demolish.

In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this Section and may order the Building Inspector to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council, who shall cause the same to be paid and levied as a special assessment against the property.

Subd. 6. Costs.

Costs incurred under Subdivision 5 shall be paid out of the Treasury. Such costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located, and shall be collected in the manner provided for special assessments.

Subd. 7. Unlawful Act.

It is unlawful for the owner of any property to offer or permit an unsafe building as defined herein to remain thereon.

Source: Ordinance No. 123, Second Series
Effective Date: 06-05-1998

(Sections 4.11 through 4.29, inclusive, reserved for future expansion.)

SECTION 4.30. UNDERGROUND UTILITY CONSTRUCTION.

Subd. 1. Underground Construction Required.

All utility lines hereafter installed, constructed or otherwise placed within the City for electric, telephone, TV cable or other like or similar services to serve residential, commercial and industrial customers in newly platted areas, and which utilize metallic conductors to carry electric current, whether owned, installed or constructed by the supplier, consumer or any party, shall be installed and placed underground, subject only to the exceptions hereinafter stated; however, above-ground placement, construction, modification or replacement of meters, gauges, transformers, street lighting and service connection pedestals shall be allowed. The requirements of this Section shall apply equally outside of the corporate limits of the City coincident with City jurisdiction of platting, subdivision regulation or comprehensive planning as may now or in the future be allowed by law. All companies installing and operating lines such as those described herein shall be referred to as "utility companies" for purposes of this Section.

Subd. 2. Exceptions to Application.

The following exceptions to the strict applicability of this Section shall be allowed upon the conditions stated:

A. Transmission Lines.

Above-ground placement, construction, modification or replacement of those lines commonly referred to as "high voltage transmission lines" upon which the conductor's normal operating voltage equals or exceeds 23,000 volts (phase to phase) shall be allowed; provided, however, that sixty days prior to commencement of construction of such a project, the City shall be furnished notice of the proposed project and, upon request, the utility company involved shall furnish any relevant information regarding such project to the City. This Section 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.

B. Technical and Economic Feasibility.

Above-ground placement, construction, modification or replacement of lines shall be allowed in residential, commercial and industrial areas where the Council, following consideration and recommendation by the Planning Commission, finds that:

1. Underground placement would place an undue financial burden upon the landowner or the utility company or deprive the landowner of the preservation and enjoyment of substantial property rights; or,

2. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement.

C. Temporary Service.

Above-ground placement of temporary service lines shall only be allowed.

1. During the new construction of any project for a period not to exceed twelve months;

2. During any emergency to safeguard lives or property within the City;

3. For a period of not more than seven months when soil conditions make excavation impractical.

Subd. 3. Repair and Maintenance of Existing Installations.

Nothing in this Section shall be construed to prevent repair, maintenance, replacement or modification of existing overhead utility lines.

Subd. 4. Developer Responsibility.

All owners, platters or developers are responsible for complying with the requirements of this Section, and prior to the final approval of any plat or development plan, shall submit to the Planning Commission written instruments from the appropriate utility companies showing that all necessary arrangements with said companies for installation of such utilities have been made.

Subd. 5. Placement.

A. All utility lines shall be placed within appropriate easements or dedicated public ways so as to cause minimum conflict with other underground services. Whenever feasible, all utilities shall be placed within the same trench.

B. All utility companies shall submit annually to the Building Inspector current maps revealing locations of underground installations, whether such installations were installed prior to the effective date of this Section or hereafter.

SECTION 4.31. SPECIAL REQUIREMENTS IN NEW CONSTRUCTION.

Subd. 1. Connections Required.

All buildings for which permits are issued after adoption of this Section shall be connected to the City sewerage disposal system and water distribution system if required by the City Code.

Subd. 2. Roof and Surface Water, Sump Pumps and Other Natural Precipitation.

No water from the roof, surface, sump pump, or other natural precipitation shall be discharged into the sanitary sewerage system from a building for which a permit is issued after adoption of this Section.

Subd. 3. Remote-Type Water Meters.

All buildings for which permits are issued after adoption of this Section shall have remote-type water meters and mounting devices installed at the expense of the owner. Exceptions may be granted in writing by the City for meters greater than one-inch.

Source: City Code
Effective Date: 01-01-1979

(Sections 4.32 through 4.49, inclusive, reserved for future expansion.)

SECTION 4.50. PRIVATE SEWAGE DISPOSAL SYSTEMS AND WATER WELLS.

Subd. 1. Private Sewage Disposal Systems.

It is unlawful to construct any private sewage disposal system which is not in full compliance with the Minnesota Plumbing Code requirements.

Subd. 2. Private Water Wells.

The Water Well Construction Code adopted by the Minnesota State Board of Health is hereby adopted by reference as though set forth verbatim herein. One copy of said Code shall be marked CITY OF WADENA - OFFICIAL COPY and kept on file in the office of the Building Inspector and open to inspection and use by the public. It is unlawful to construct any private water well except in accordance with said Code.

Source: Ordinance No. 89, 3rd Series
Effective Date: 12-20-1991

SECTION 4.51. BUILDING MAINTENANCE REGULATIONS.

Subd. 1. Purpose.

The purpose of this Section is to protect, preserve, and promote the public health, safety and the general welfare of the people of the City, to prevent exterior building conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying buildings within the City, to provide an adequate level of maintenance; to preserve the value of land and buildings throughout the City; and to provide for the administration and enforcement thereof

Subd. 2. Discrimination and Privacy.

This section shall be enforced in a non-discriminatory manner and exclusively for the purpose of promoting public, as opposed to private, welfare. Except as may be specifically provided herein or incidental to the enforcement hereof, this Section is not intended to interfere with personal privacy or with private legal rights and liabilities, including without limitation landlord/tenant and lessor/lessee relationships, and in enacting and enforcing this Section, the City neither expressly nor by implication assumes any obligations or liabilities respecting such private rights or disputes, including those which involve or arise out of the non-conformity of any premises in the City to the provisions of this Section.

Subd. 3. Applicability.

Every building and its premises used in whole or in part as a residence, or as an accessory structure thereof, for a single family or person, and every building used in whole

or in part as a residence of two or more persons or families living in separate units, except rest homes, convalescent homes, nursing homes, hotels and motels, shall conform to the requirements of this Section, irrespective of when such building may have been or may be constructed, altered, or repaired. This Section establishes minimum exterior standards for buildings, accessory structures, and related premises.

Subd. 4. Responsibility of Owners and Occupants.

A. Responsibility of Owners.

The owner of buildings shall be responsible for the maintenance of that structure and for meeting the provisions of the building maintenance regulations.

B. Joint Responsibility of Occupants and Owners.

1. It is unlawful for any owner, agent or occupant of any building to allow the accumulation of rubbish or garbage on the premises which he/she occupies or controls in a manner that could create a health hazard to the building occupants or the general public.

2. Rodent Harborage in Occupied Areas.

It is unlawful for any owner, occupant or agent to allow formation of rodent harborage in or about the premises that he/she occupies or controls.

3. Pest Extermination.

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of rodents, insects or vermin on a premises. Every occupant of a dwelling unit in a dwelling containing more that one dwelling unit shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. Notwithstanding; however, whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonable rodent-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

4. Nuisances.

It is unlawful for the owner, agent or occupant of any dwelling unit to allow the formation or presence of any nuisance (as defined in Chapter 10 of the City Code) in or about the premises he/she occupies or controls.

Subd. 5. Standards.

A. Exterior Standards.

1. Foundations, Exterior Walls, and Roofs.

The foundation, exterior walls, and exterior roof shall be water tight, rodent-proof, and shall be kept in sound condition and repair. Every window, exterior door, and hatchway shall be substantially tight and shall be kept in sound condition and repair. The foundation shall adequately support the building at all points. Exterior walls shall be maintained and kept free from dilapidation by cracks, tears, or breaks or from deteriorated plaster, stucco, brick wood, or other material that is extensive and gives evidence of long neglect. The protective surface on exterior walls of a building above the ground level shall be maintained in good repair so as to provide a sufficient covering and protection of the structural surface underneath against its deterioration. Without limiting the generality of this Section, a protective surface of a building shall be deemed to be out of repair if:

a. The protective surface is paint which is blistered to an extent of more than twenty-five percent (25%) of the area of any plane or wall or other area including window trim, cornice members, porch railings and other such areas;

b. More that ten percent (10%) of the pointing of any chimney or twenty-five (25%) of the pointing of any brick or stone wall is loose or has fallen out;

c. More than twenty-five percent (25%) of the finish coat of stucco wall is worn through or chipped away.

2. Exterior Surfaces.

Any exterior surface or plane required to be repaired under the provisions of this Section shall be repaired in its entirety. If a weather resistant surface such as brick, plaster or metal is covered with paint that is more than twenty-five percent (25%) blistered, it shall be repainted unless the defective paint covering is removed in its entirety.

3. Accessory Structure Maintenance.

Accessory structures supplied by the owner, agent, or tenant on the premises shall be structurally sound, and be maintained in good repair and appearance. Exterior walls of accessory structures shall be maintained in accordance with the standards set forth for principal structures.

4. Retaining Walls.

Retaining walls shall be kept in good condition, repair, and appearance. A retaining wall shall be deemed out of repair when it has substantially shifted or slumped out of its position.

5. Yard Cover.

All exposed areas surrounding (or within) a principal or accessory use, including street boulevards which are not devoted to parking, drives, sidewalks, patios, or other such uses, shall be landscaped with grass, shrubs, trees or other ornamented landscape material. Such landscaping shall be maintained in good condition and free of noxious weeds. Grass and weeds may not exceed eight (8) inches in height at any time.

6. Gutters and Downspouts.

Existing gutters, leaders and downspouts shall be maintained in good working condition as to provide proper drainage of storm water. In no case shall storm water be channeled into the sanitary sewer system. Neither shall storm water, ice or snow be directed onto, or channeled into the sanitary sewer. Neither shall storm water, ice or snow be directed onto, or channeled across walkways or streets where it is likely to be a hazard to life or health

B. Structural Standards; Stairways, Porches, and Balconies.

Every stairway, outside of a building and every porch or balcony, shall be kept in safe condition and sound repair. Every flight of stairs and every porch and balcony floor shall be free of deterioration. No flight of exterior stairs shall have settled out of its intended position or have pulled away from the supporting or adjacent structures enough to cause a hazard. No flight of exterior stairs shall have rotting, loose, or deteriorating supports.

Subd. 6. Enforcement and Inspection.

The Public Works Director shall provide an annual inspection of properties within the City yearly between the months of April and May to complete a list of public nuisances; this list will then be given to the Police Department for their reviewal of the properties in question.

Subd. 7. Duties of City Officers.

The Police Department shall enforce provisions of this Section and shall assist the Public Works Director in the enforcement of provisions relating to building maintenance affecting the public safety. Such officers shall have the power to inspect private

premises and take all reasonable precaution to prevent the commission and maintenance of public nuisances.

Subd. 8. Abatement.

Whenever the officer in charge of enforcement determines that a public nuisance due to violation of the building maintenance regulations exists on premises in the City, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and a reasonable time limit, not exceeding 30 days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall report that fact therewith to the Council. Thereafter the Council may, after notice to the owner or occupant, provide an opportunity to be heard, or provide for abating the nuisance by the City. The notice shall be served in the same manner as notice by the enforcing officer is served and shall be given at least ten days before the date stated in the notice when the Council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting and the hearing.

Subd. 9. Recovery of Cost.

The owner of premises on which a nuisance due to violation of the building maintenance regulations 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 Administrator 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 Administrator. In the event that the charges remain unpaid, the City Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under MN Stat.§ 429.101, against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

Source: Ordinance No. 132, Second Series
Effective Date: 07-24-1998

(Sections 4.52 through 4.98, inclusive, reserved for future expansion.)

SECTION 4.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, 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.

Source: City Code
Effective Date: 01-01-1979

CHAPTER 5

LIQUOR, WINE AND BEER LICENSING AND REGULATION

SECTION 5.01. DEFINITIONS.

Subd. 1. Terms used in this Chapter

A. As used in this Chapter, unless otherwise stated in specific sections, the following words and terms shall have the meanings stated:

1. "Alcoholic Beverage" means any beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine, and liquor as defined in this Section.

2. "Applicant" means any person making an application for a license under this Chapter.

3. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his/her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

4. "Beer" means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein.)

5. "Brewer" means a person who manufactures beer for sale.

6. "Church" means a building which is principally used as a place where persons of the same faith regularly assemble for the public worship of God.

7. "Club" means an incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which: (1) has more than fifty members; (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution 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. Such club or congressionally chartered veterans' organization must have been in existence for at least three years.

8. "Commissioner" means the Minnesota Commissioner of Public Safety.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

9. "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has: (1) a dining room serving the general public at tables and having facilities for seating at least thirty guests at one time; and (2) at least 50 guest rooms.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

10. "License" means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.

11. "Licensee" means an applicant who, pursuant to his/her 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.

12. "License Fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

13. "Licensed Premises" means the space or structure described in the issued license. In the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

14. "Liquor" means ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)

15. "Malt Liquor" means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

16. "Manufacturer" means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

17. "Minor" means any natural person who has not attained the age of 21 years.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

18. "Off-Sale" means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

19. "On-Sale" means the sale of alcoholic beverages for consumption on the licensed premises only.

20. "Package" and "Original Package" mean any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

21. "Restaurant" means 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 for 125 guests.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

22. "Sale", "Sell" and "Sold" mean all barters and all manners or means of furnishing beer, wine or liquor to persons, including such furnishing in violation or evasion of law.

23. "Wholesaler" means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

24. "Wine" means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from

condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. (This definition includes "wine coolers" with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, "wine" may contain up to 14 percent alcohol by volume for consumption with the sale of food. For all other purposes, "wine" is a product containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

SECTION 5.02. APPLICATION AND LICENSE - PROCEDURE AND ADMINISTRATION.

Subd. 1. Application.

All applications shall be made at the office of the City Clerk-Treasurer upon forms prescribed by the proper agency of the State of Minnesota together with such additional information as the Council may desire. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

Subd. 2. False Statements.

It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part thereof.

Source: City Code
Effective Date: 01-01-1979

Subd. 3. Application and Investigation Fees.

At the time of the initial application, an applicant for an on-sale liquor license shall pay to the City the sum of $500.00, an applicant for an on-sale wine license shall pay to the City the sum of $100.00 and the applicant for an on-sale beer license shall pay to the City the sum of $25.00, which fee shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof.

Source: Ordinance No. 47, 3rd Series
Effective Date: 11-24-1984

Subd. 4. Action.

A. 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.

B. Issuing.

If an application is approved, the City Clerk-Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the City or the proper agency of the State of Minnesota, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro-rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

C. License Refundment 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 his/her illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under his/her license, except when such license is revoked, the City shall, upon the happening of any such event, refund to the licensee, or to his/her estate, such part of the license fee paid by him as corresponds to the time such license had yet to run. In the event of death of the licensee, his/her personal representative is hereby authorized to continue operation of said business for not more than ninety days after the death of such licensee.

D. Transfer.

No license shall be transferable between persons or to a different location without prior consent of the Council and the filing of a new application. It is unlawful to make any transfer in violation of this Subparagraph.

Source: City Code
Effective Date: 01-01-1979

E. 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.

Source: Ordinance No. 36, 3rd Series
Effective Date: 05-30-1984

F. Revocation or Suspension.

For any license granted under the provisions of this Chapter, the Council may revoke, suspend for a period not to exceed sixty days, impose a civil fine not to exceed $2,000.00, or any combination of these sanctions, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if such revocation is mandatory by Statute. If it shall be made to appear at the hearing 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. 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 fifteen nor more than thirty days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute, the following shall also be grounds for such action: (1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

Source: Ordinance No. 124, 3rd Series
Effective Date: 06-05-1998

Subd. 5. Duplicate Licenses.

Duplicates of all original licenses may be issued by the City Clerk-Treasurer without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of $2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 6. Posting.

All licensees shall post their licenses in their places of business.

Subd. 7. Resident Manager or Agent.

Before a license is issued to an individual who is a non-resident of the City, to more than one individual whether or not they are residents of the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing an individual person who is a resident of the City as its Manager or Agent. Such resident Manager or Agent shall, by the terms of his/her written consent, (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such Manager or Agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such Manager or Agent ceases to be a resident of the City 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.

Source: City Code
Effective Date: 01-01-1979

Subd. 8. Persons Disqualified.

A. No license under this Chapter may be issued, or renewed, to: (1) a person who within five years of the license application has been convicted of any felony or a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; (2) a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; (3) a person under the age of twenty-one years; or, (4) a person not of good moral character and repute.

B. No person holding a license from the Commissioner as a manufacturer, brewer (except as provided by statute), wholesaler or importer, may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the City.

Source: Ordinance No. 124, 3rd Series
Effective Date: 06-05-1998

SECTION 5.03. RENEWAL OF LICENSES.

Applications for renewal of an existing liquor license shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

SECTION 5.04. DELINQUENT TAXES AND CHARGES.

No license 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.

Source: City Code
Effective Date: 01-01-1979

SECTION 5.05. LIMITATION ON OWNERSHIP.

No person shall be granted beer, wine or liquor licenses at more than one location. For the purpose of this Section, any person owning an interest of five percent (5%) or more of the entity to which the license is issued, or such ownership by a member of his/her immediate family, shall be deemed to be a licensee.

Source: Ordinance No. 50, 3rd Series
Effective Date: 03-01-1985

SECTION 5.06. 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.

Source: City Code
Effective Date: 01-01-1979

SECTION 5.07. PREMISES LICENSED.

A license issued under the provisions of this Chapter shall be valid only for the premises described in the license, and all transactions relating to a sale under such license must take place within such space or structure.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

SECTION 5.08. UNLAWFUL ACTS.

Subd. 1. Consumption.

It is unlawful for any person to consume, or any on-sale licensee to permit consumption of, beer, wine or liquor on licensed premises more than thirty (30) minutes after the hour when a sale thereof can legally be made.

Source: Ordinance No. 50, 3rd Series
Effective Date: 03-01-1985

Subd. 2. Removal of Containers.

It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing beer, wine or liquor in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than thirty (30) minutes after the hour when a sale thereof can legally be made.

Subd. 3. Closing.

It is unlawful for any person, other than an on-sale licensee's bona fide employee actually engaged in the performance of his/her duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales. Provided, however, that this Subdivision 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 beer, wine or liquor.

Source: Ordinance No. 36, 3rd Series
Effective Date: 05-30-1984

SECTION 5.09. (Repealed by Ord. No. 58, 3rd Series, adopted 03-26-1986.)

SECTION 5.10. SALE BY EMPLOYEE.

Any sale of beer, wine or liquor in or from any premises licensed under this Chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties provided by law for such sale, equally with the person actually making the sale.

Source: Ordinance No. 50, 3rd Series
Effective Date: 03-01-1985

SECTION 5.11. FINANCIAL RESPONSIBILITY OF LICENSEES.

Subd. 1. Proof.

No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by Minnesota Statutes by filing with the City:

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

A. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) $50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of $100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of $10,000.00 because of injury to or destruction of property of others in any one occurrence, and (2) $50,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, $100,000.00 for loss of means of support of two or more persons in any one occurrence; or,

B. A bond of a surety company with minimum coverages as provided in Subparagraph A of this Subdivision; or,

C. A certificate of the State Treasurer that the licensee has deposited with him $100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of $100,000.00.

Source: Ordinance No. 36, 3rd Series
Effective Date: 05-30-1984

Subd. 2. Exception.

This Section does not apply to on-sale beer licensees with sales of beer of less than $10,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than $20,000.00 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than $10,000.00 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this Subdivision.

Source: Ordinance No. 50, 3rd Series
Effective Date: 03-01-1985

Subd. 3. Documents Submitted to Commissioner.

All proofs of financial responsibility and exemption affidavits filed with the City under this Section shall be submitted by the City to the Minnesota Commissioner of Public Safety.

SECTION 5.12. PROOF OF AGE. (Repealed by Ord. No. 58, 3rd Series, adopted 03-26-1986.)

SECTION 5.13. INSURANCE CERTIFICATE REQUIREMENTS.

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

Source: Ordinance No. 36, 3rd Series
Effective Date: 05-30-1984

SECTION 5.14. 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 beer, temporary on-sale of beer, on-sale of liquor, and on-sale of liquor by clubs, 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. Provided, however, that before any such fee shall be increased, a 30-day notice shall be mailed to all affected licensees and a hearing held thereon. A copy of the resolution shall be kept on file in the office of the City Administrator, and open to inspection during regular business hours.

Source: Ordinance No. 90, 3rd Series
Effective Date: 11-28-1991

SECTION 5.15. CONDUCT ON LICENSED PREMISES.

Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his/her place of business and shall maintain conditions of sobriety and order therein.

SECTION 5.16. MINORS AS DEFINED IN SECTION 5.01 - UNLAWFUL ACTS.

Subd. 1. Consumption.

It is unlawful for any:

A. Licensee to permit any minor to consume alcoholic beverages on licensed premises.

B. 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.

Subd. 2. Purchasing.

It is unlawful for any person:

A. 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.

B. Minor to purchase or attempt to purchase any alcoholic beverage.

C. To induce a minor to purchase or procure any alcoholic beverage.

Subd. 3. 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 his/her parent or guardian.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

Subd. 4. Entering Licensed Premises.

It is unlawful for any minor, as defined in this Chapter, to enter licensed premises or the municipal dispensary for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of eighteen years to enter licensed premises for the following purposes: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of eighteen 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.

Source: Ordinance No. 67, 3rd Series
Effective Date: 04-22-1987

Subd. 5. Misrepresentation of Age.

It is unlawful for a minor to misrepresent his/her age for the purpose of purchasing an alcoholic beverage.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

Subd. 6. Proof of Age.

Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid military identification card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

Subd. 7. Qualification for License.

No minor shall qualify for a license.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

SECTION 5.17. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.

It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, or (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers. Provided further, that alcoholic beverages may be consumed between the hours of 8:00 o'clock A.M. and 10:00 o'clock P.M. in Sunnybrook Park and in Black's Grove Park without a permit as herein required.

SECTION 5.18. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.

It is unlawful for any person to introduce upon, or have in his/her 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 beer, and for any person to possess beer as a result of a purchase from those organizations holding temporary licenses.

Source: Ordinance No. 67, 3rd Series
Effective Date: 04-22-1987

SECTION 5.19. WORKER'S COMPENSATION.

No license to operate a business shall be issued by the City until the applicant presents his/her employer's tax identification number and acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Source: Ordinance No. 90, 3rd Series
Effective Date: 11-28-1991

(Sections 5.20 through 5.29, inclusive, reserved for future expansion.)

SECTION 5.30. BEER LICENSE REQUIRED.

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the City. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

SECTION 5.31. (Repealed by Ordinance No. 36, 3rd Series, adopted 02-22-1984.)

SECTION 5.32. TEMPORARY BEER LICENSE - CONDITIONS AND FEES.

Subd. 1. Applicant.

A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota, and having its registered office and principal place of activity within the City, shall qualify for a temporary on-sale beer license, for serving beer on and off school grounds, and in and out of school buildings.

Subd. 2. Conditions.

A. An application for a temporary license shall state the exact dates and place of proposed temporary sale.

B. (Repealed by Ordinance No. 124, 3rd Series, adopted 04-08-1998.)

C. If the premises proposed to be licensed are City-owned property, the Council may, as a condition to issuance of the license, require insurance coverage.

D. The applicant shall comply with all other restrictions, limitations and regulations for the sale of beer under the City Code and Statutes.

Source: City Code
Effective Date: 01-01-1979

Subd. 3. (Repealed by Ordinance No. 36, 3rd Series, adopted 02-22-1984.)

SECTION 5.33. BEER LICENSE RESTRICTIONS AND REGULATIONS.

Subd. 1. Age Limit, On Sale and Establishments Serving Food

No person who has not attained the age of eighteen (18) years shall be employed to sell or serve beer in any on-sale establishment. Provided, however, that a person who has attained the age of seventeen (17) years may be employed in any restaurant licensed to sell beer in which the principal part of said business is the serving of food.

Subd. 2. Age Limit, Off Sale

No person who has not attained the age of eighteen (18) years shall be employed to sell beer in any off-sale establishment except in the capacity of a cashier at a check-out counter.

Source: Ordinance No. 67, 3rd Series
Effective Date: 04-22-1987

Subd. 3. Church Structure.

No license shall be granted for any building within 300 feet of any public elementary or secondary school structure, or within l00 feet of any church structure. This provision shall not be applicable to a temporary beer license.

Subd. 4. Licenses based on Population Increments.

No more than one on-sale beer license shall be issued for each increment of 750 population based on the last census of the City.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

SECTION 5.34. HOURS AND DAYS OF SALE OF BEER.

No sale of beer shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday inclusive, nor on any Sunday between the hours of 1:00 o'clock A.M. and 12:00 o'clock noon, nor after 8:00 o'clock P.M. on December 24.

Source: Ordinance No. 50, 3rd Series
Effective Date: 03-01-1985

SECTION 5.35. UNLAWFUL ACTS (BEER).

Subd. 1. Unlawful Acts.

It is unlawful for any:

A. Person to knowingly induce another to make an illegal sale or purchase of beer. Licensee to sell or serve beer to any person who is obviously intoxicated.

B. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

C. Licensee to sell beer on any day, or during any hour, when such sales are not permitted by law.

D. Licensee to allow consumption of beer on licensed premises on any day when sales of beer are not permitted by law.

E. Person to purchase beer on any day, or during any hour, when sales of beer are not permitted by law.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

(Sections 5.36 through 5.49, inclusive, reserved for future expansion.)

SECTION 5.50. LIQUOR GENERALLY.

Subd. 1. Liquor License Required.

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply (1) to such potable liquors as are intended for therapeutic purposes and not as a beverage, (2) to industrial alcohol and its compounds not prepared or used for beverage purposes, (3) to wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee, (4) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (5) to sales by wholesalers to persons holding liquor licenses from the City, or (6) to the municipal liquor store. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license. 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.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

Subd. 2. Authority.

The electorate of the City, having heretofore authorized the same, on-sale liquor licenses may be issued to hotels, motels and restaurants.

Subd. 3. Number of Licenses.

The number of licenses which the Council may issue shall be one less than the number of on-sale liquor licenses authorized by State Statute.

Source: City Code
Effective Date: 01-01-1979

SECTION 5.51. (Repealed by Ordinance No. 36, 3rd Series, adopted 02-22-1984.)

SECTION 5.52. LIQUOR LICENSE RESTRICTIONS AND REGULATIONS.

Subd. 1. Bond Required.

Prior to issuance of any on-sale license the applicant shall file with the City Clerk-Treasurer a bond with a corporate surety, cash, or United States government bonds in the sum of $3,000.00.

Subd. 2. Conditions of License.

A. Every license shall be granted subject to the provisions of this Chapter and all other applicable provisions of the City Code and other laws relating to the operation of his/her business.

B. No gambling shall be permitted on licensed premises except such as are licensed by or under the control of the Charitable Gambling Control Board, nor shall any prostitute or person of known immoral character or any disorderly person be permitted on such premises.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

C. (Repealed by Ordinance No. 90, 3rd Series, adopted 11-13-1991.)

D. No licensee shall sell, offer for sale, or keep for sale, liquor in any original package which has been refilled or partly refilled.

E. No licensee shall display liquor to the public during hours when the sale of liquor is prohibited.

F. Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws or partnership agreement, as the case may be, shall be submitted to the City Administrator within thirty days after such changes are made.

SECTION 5.53. UNLAWFUL ACTS (LIQUOR).

It is unlawful for any:

Subd. 1. Inducing Another to Make Illegal Sale or Purchase.

Person to knowingly induce another to make an illegal sale or purchase of liquor.

Subd. 2. Sales on Days or Times not Permitted by Law.

Licensee, or an employee of a licensee, to sell or serve liquor on any day, or during any hour, when sales of liquor are not permitted by law.

Subd. 3. Purchase or Consumption at Times not Permitted by Law.

Person to purchase or consume liquor on licensed premises on any day, or during any hour, when sales of liquor are not permitted by law.

Subd. 4. Sale to Intoxicated Persons.

Licensee, or employee of a licensee, to sell or serve liquor to any person who is obviously intoxicated.

Subd. 5. Failure to Require Adequate Proof of Age.

Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

SECTION 5.54. HOURS AND DAYS OF LIQUOR SALES.

No sale of liquor shall be made after 1:00 o'clock A.M. on Sunday, nor until 8:00 o'clock A.M. on Monday, nor after 8:00 o'clock P.M. on December 24. No on-sale shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday. (NOTE: This Section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the Section of this Chapter entitled "Sunday Sales".)

Source: Ordinance No. 90, 3rd Series
Effective Date: 11-28-1991

SECTION 5.55. SPORTS OR CONVENTION FACILITIES LICENSE.

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. 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.

Source: Ordinance No. 36, 3rd Series
Effective Date: 05-30-1984

SECTION 5.56. TEMPORARY LIQUOR LICENSE.

Subd. 1. License Authorized.

Notwithstanding any provision of the City Code to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event spon-

sored 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.

Subd. 2. Applicant.

The applicant for a license under this Section must be a club or charitable, religious, or other non-profit organization in existence for at least three years.

Source: Ordinance No. 58, Second Series
Effective Date: 04-02-1986

Subd. 3. Terms and Conditions of License.

A. No license is valid until approved by the Commissioner.

B. No license shall be issued for more than four consecutive days.

C. No temporary license shall issue until the City is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this Chapter, and that such coverage is in force on the premises where liquor is to be served.

D. All licenses and licensees are subject to all provisions of statutes and the City Code relating to liquor sale and licensing except those relating to financial responsibility and insurance, and except those which by their nature are not applicable.

E. Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

F. No more than three four-day, four three-day or six two-day licenses in any combination not to exceed 12 days per year may be issued to any one organization, or for any one location within a 12-month period.

G. No more than one temporary license may be issued to any one organization or registered political committee or for any one location within any 30-day period.

Subd. 4. Insurance Required.

The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of $100,000 for injury to any one person, $50,000 for injury to more than one person, and $200,000 for property damage, naming the City as an insured during the license period.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

SECTION 5.57. SUNDAY SALES.

Subd. 1. License Required.

The electorate of the City having heretofore authorized the same at a general or special election, a Sunday on-sale liquor license may be issued to hotels, restaurants or clubs, in conjunction with the sale of food, which have on-sale liquor licenses and which also have seating capacity for not less than 125 guests at one time. Prior to issuance of such license, the applicant shall provide the City with proof of financial responsibility for Sunday sales.

Subd. 2. Special Clerk's Permit Required for On-Sale Club License.

A. By authorizing Sunday on-sales, it is anticipated that a Sunday on-sale liquor licensee will make such sales only on those certain Sundays for which a special Clerk's permit has been issued. Permits for certain Sunday sales shall not exceed twelve (12) permits per calendar year.

B. A Sunday on-sale liquor licensee may obtain a special Clerk's permit by applying to the City Clerk at least five business days prior to the Sunday on which the licensee desires to make such sales. Upon receipt the City Clerk shall refer the application to the Chief of Police for his/her information and endorsement, and, upon return of the application, the City Clerk shall issue the permit. No fee shall be charged for the permit.

Source: Ordinance No. 75, 3rd Series
Effective Date: 12-18-1987

Subd. 3. Hours of Sale.

The hours of Sunday on-sale liquor sales shall be from 12:00 o'clock noon on Sunday to 1:00 o'clock A.M. on Monday, provided that the licensee is in conformance with the Minnesota Clean Air Act.

Source: Ordinance No. 90, 3rd Series
Effective Date: 11-28-1991

Subd. 4. Unlawful Acts.

It is unlawful to sell liquor on Sunday unless such sales are (1) licensed in accordance with this Section, (2) for a club on a Sunday for which a special Clerk's permit has been issued, (3) in conjunction with the sale of food, and (4) during hours of permitted sales.

Subd. 5. License Fee.

All fees for Sunday on-sale liquor licenses shall be set by resolution of the Council.

Source: Ordinance No. 75, 3rd Series
Effective Date: 12-18-1987

(Sections 5.58 and 5.59 reserved for future expansion.)

SECTION 5.60. MUNICIPAL DISPENSARY.

Subd. 1. Establishment.

A Municipal Dispensary is hereby established to be operated within the City for the off-sale of liquor potable as a beverage and containing more than 3.2% alcohol by weight. Such Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the City. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary. All employees, including the Manager, shall hold their positions at the pleasure of the Council.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Dispensary Fund.

A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be paid, and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the Council, and expended for any municipal purpose.

Source: Ordinance No. 17, 3rd Series
Effective Date: 06-18-1981

SECTION 5.61. CLUBS.

Subd. 1. 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.

Subd. 2. (Repealed by Ordinance No. 36, 3rd Series, adopted 02-22-1984.)

Subd. 3. Club License Restrictions and Regulations.

A. 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 and relating to the on-sale of liquor, shall be binding upon all club licensees.

Source: City Code
Effective Date: 01-01-1979

(Sections 5.62 through 5.69, inclusive, reserved for future expansion.)

SECTION 5.70. ON-SALE WINE.

Subd. 1. On-Sale Wine License Required.

It is unlawful for any person to sell, or keep or offer for sale, any wine without a license therefor from the City. This Section shall not apply (1) to possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony, (2) to sales by manufacturers to wholesalers duly licensed as such by the State of Minnesota, (3) to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the City, or (4) to sales by wholesalers to persons holding on-sale wine licenses from the City.

Subd. 2. On-Sale Wine License Restrictions and Regulations.

A. Prior to issuance of any on-sale wine license the applicant shall file with the City Administrator a bond with a corporate surety, cash, or United States government bonds in the sum of $3,000.00.

B. No license shall be granted to a wholesaler or manufacturer of wine, or to anyone holding a financial interest in such manufacture or wholesaling.

C. No gambling or gambling device shall be permitted on any licensed premises, except such as are licensed by the Charitable Gambling Control Board.

D. (Repealed by Ordinance No. 90, 3rd Series, adopted 11-13-1991.)

E. No licensee shall display wine to the public on days or during hours when the sale of wine is prohibited.

F. On-sale wine licenses shall be granted only to restaurants as defined in this Chapter. Provided, however, for purposes of this Section, such restaurant shall have appropriate facilities for seating not less than fifty guests at one time.

G. Every license shall be granted subject to the provisions of this Chapter and all other applicable provisions of the City Code and other laws relating to the operation of the licensed business.

Source: Ordinance No. 46, 3rd Series
Effective Date: 11-24-1984

SECTION 5.71. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.

No on-sale of wine shall be made between the hours of 1:00 o'clock A.M. and 12:00 o'clock noon on Sunday, nor between the hours of 1:00 o'clock A.M. and 8:00 o'clock

A.M. on the days of Monday through Saturday, nor between the hours of 8:00 o'clock P.M. on December 24 and 8:00 o'clock A.M. on December 25.

Source: Ordinance No. 90, 3rd Series
Effective Date: 11-28-1991

SECTION 5.72. NUMBER OF LICENSES ISSUED.

No more than one on-sale wine license shall be issued for each increment of 900 population based on the last census of the City.

Source: Ordinance No. 46, 3rd Series
Effective Date: 11-24-1984

SECTION 5.73. UNLAWFUL ACTS (WINE).

Subd. 1. It is unlawful:

A. For any person to knowingly induce another to make an illegal sale or purchase of wine.

B. For any Licensee to sell wine on any day, or during any hour, when sales of wine are not permitted by law.

C. For any Person to purchase wine on any day, or during any hour, when sales of wine are not permitted by law.

D. For any Licensee to sell or serve wine to any person who is obviously intoxicated.

E. For any Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

F. For any Licensee to sell wine except in conjunction with the sale of food.

Source: Ordinance No. 58, 3rd Series
Effective Date: 04-02-1986

(Sections 5.74 through 5.79, inclusive, reserved for future expansion.)

SECTION 5.80. CONSUMPTION AND DISPLAY.

Subd. 1. Consumption and Display License Required.

It is unlawful for any business establishment or club, not holding an on-sale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to such members, without a license therefor from the City.

Subd. 2. Consumption and Display Restrictions and Regulations.

A. Eligible Licensees.

If the applicant is otherwise eligible, licenses may be issued only to (1) persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this Chapter or other law relating to the sale or furnishing of alcoholic beverages; (2) a restaurant; (3) a hotel; (4) a beer licensee; (5) a resort as defined by statute; or, (6) a club or an unincorporated club otherwise meeting the definition of a club, provided, that no license may be issued to a club holding an on-sale liquor license.

B. Unlawful Act.

It is unlawful to sell liquor on licensed premises.

Source: Ordinance No. 67, 3rd Series
Effective Date: 04-22-1987

Subd. 3. License Expiration.

In order to coordinate the expiration of a consumption and display license with a State permit, all licenses shall expire on March 31 of each year.

Source: Ordinance No. 124, Second Series
Effective Date: 06-05-1998

Subd. 4. State Permit Required.

Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.

Subd. 5. Lockers.

A club to which a license is issued under this Section may allow members to bring and keep a personal supply of liquor in lockers on the club's premises. All bottles kept on

the premises must have attached labels signed by the member. No minor may keep a supply of liquor on club premises.

Subd. 6. Hours and Days.

No licensee may permit a person to consume or display liquor, and no person may consume or display liquor, between 1:00 o'clock A.M. and 12:00 o'clock noon on Sundays, and between 1:00 o'clock A.M. and 8:00 o'clock A.M. on Monday through Saturday.

Source: Ordinance No. 67, 3rd Series
Effective Date: 04-22-1987

(Sections 5.8l through 5.89, inclusive, reserved for future expansion.)

SECTION 5.90. NUDITY OR OBSCENITY PROHIBITED.

Subd. 1. Definitions.

As used in this Section, the following words and terms shall have the meanings stated:

A. The term "nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

B. The term "obscene performance" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

C. The term "obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

D. The term "sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

E. The term "sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

F. The term "sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Subd. 2. Unlawful Act.

It is unlawful for any person issued a license provided for in this Chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

Source: City Code
Effective Date: 01-01-1979

(Sections 5.91 through 5.98, inclusive, reserved for future expansion.)

SECTION 5.99. VIOLATION A MISDEMEANOR.

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

Source: City Code
Effective Date: 01-01-1979

CHAPTER 6

OTHER BUSINESS REGULATION AND LICENSING

SECTION 6.01. DEFINITIONS.
As used in this Chapter, the following words and terms shall have the meanings stated:

Subd. 1. Applicant.

The term "applicant" means any person making an application for a license under this Chapter.

Subd. 2. Application.

The term "application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his/her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 3. Bond.

The term "bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

Subd. 4. Business

The term "business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

Subd. 5. License

The term "license" means a document issued by the City to an applicant permitting him/her to carry on and transact a business.

Subd. 6. Licensee

The term "licensee" means an applicant who, pursuant to his/her application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

Subd. 7. License Fee

The term "license fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

Subd. 8. Sale, Sell, Sold

The terms "sale", "sell" and "sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

SECTION 6.02. APPLICATIONS.

All applications shall be made as follows:

Subd. 1. Location and Forms.

All applications shall be made at the office of the City Clerk-Treasurer upon forms that have been furnished by the City for such purposes

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Fee.

All initial applications shall be accompanied by a payment of a single fee to cover the cost of investigation as herein provided, which fee shall be fixed and determined by the Council and adopted by resolution.

Source: Ordinance No. 18, 3rd Series
Effective Date: 06-18-1981

Subd. 3. Applications subscribed and sworn.

All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

A. Applicant's name, age and citizenship.

B. Applicant's present address and length of time he/she has lived at that address.

C. Applicant's occupation and length of time so engaged.

D. Applicant's addresses and occupations for the three years last preceding the date of application.

E. Names and addresses of applicant's employers, if any, for the three years last preceding the date of application.

F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but exclud-

ing traffic violations, and if so, the date and place of conviction and the nature of the offense.

G. Type of license and location of premises for which application is made.At least four character references if applicant has not resided in the City for two years last preceding the date of application.

H. Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

Subd. 4. 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.

Subd. 5. City Clerk-Treasurer.

The City Clerk-Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he/she deems necessary. For such investigation the City Clerk-Treasurer may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

Subd. 6. Renewal Form.

Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

SECTION 6.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

Subd. 1. 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. All applications, including proposed license periods, must be consistent with this Chapter.

Subd. 2. Issuing.

If an application is approved, the City Clerk-Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, pay-

ment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than $100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Licenses shall be valid only at one location and on the premises therein described.

Subd. 3. 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 Subdivision.

Subd. 4. Termination.

Licenses shall terminate only by expiration or revocation.

Subd. 5. Refusal and Revocation.

The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

Subd. 6. Duplicate License.

Duplicates of all original licenses may be issued by the City Clerk-Treasurer without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of $2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

SECTION 6.04. CARRYING OR POSTING.

All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in 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.

SECTION 6.05. PENALTY FOR PROPERTY OWNER.

It is unlawful for any person to knowingly permit any real property owned or controlled by him/her to be used, without a license, for any business for which a license is required by this Chapter.

SECTION 6.06. RESPONSIBILITY OF LICENSEE.

The conduct of agents or employees of a person to whom a license is issued shall be deemed the conduct of the licensee himself/herself.

SECTION 6.07. 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.

SECTION 6.08. RENEWAL OF LICENSES.

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

Source: City Code
Effective Date: 01-01-1979

SECTION 6.09. FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses and investigations 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 and investigation fees shall be kept on file in the office of the City Clerk-Treasurer, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may 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.

SECTION 6.10. INSURANCE REQUIREMENTS.

Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk-Treasurer a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty days' written

notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

SECTION 6.11. LICENSE DENIAL AND FIXING RATES - HEARING.

Subd. 1. Right to Deny.

The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

Subd. 2. Rates.

Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

Subd. 3. Hearing.

Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

Source: Ordinance No. 18, 3rd Series
Effective Date: 06-18-1981

SECTION 6.12. WORKER'S COMPENSATION.

No license to operate a business shall be issued by the City until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Source: Ordinance No. 91, 3rd Series
Effective Date: 11-28-1991

SECTION 6.13. CITY APPROVAL REQUIREMENTS.

Subd. 1. Approval and Authorization.

No City official, board, council or other City entity may grant a license, permit or other form of City approval or authorization to any person/entity unless:

A. The person/entity has complied with all relevant statutory and City Code provisions.

B. The person/entity has paid all fees, charges, taxes, special assessments, or other debt or obligation owed by the person to the City regarding any other matter; and,

C. The person/entity is in compliance with all City Code provisions and previously imposed conditions of approval regarding any other City approval or authorization that was granted to the person.

Subd. 2. This Section does not apply:

A. If the person/entity has provided sufficient safeguards to assure payment of debts or compliance with City requirements within a reasonable time after the City approval or authorization; or,

B. If enforcement of this Section would result in a significant hardship to the person/entity through no fault of his/her own or would result in an otherwise unfair situation.

Source: Ordinance No. 167, 3rd Series
Effective Date: 02-24-2006

(Sections 6.14 through 6.19, inclusive, reserved for future expansion.)

SECTION 6.20. HAWKERS, PEDDLERS, TRANSIENT MERCHANTS, SOLICITORS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. **"Transient Merchant"** means any person, individual corporation, limited liability company, co-partnership and corporation, both principal and agent, who engages in, does, or transacts any temporary and transient business in the City either in one locality or in traveling from place to place, selling goods, wares and merchandise; and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, vacant lot or railroad car for the exhibition and sale of such goods, wares and merchandise.

Source: Ordinance No. 125, Second Series
Effective Date: 06-05-1998

B. **"Hawker and Peddler"** means any person selling any goods or products from a vehicle pack, going about from place to place carrying said goods for the purpose of sale and delivery. If the goods or products be edible, such person is a "hawker"; if the goods be non-edible, such a person is a "peddler".

C. **"Solicitor"** means any person selling goods by sample or taking orders for future delivery and accepting a deposit or advance payment.

D. **"Locally Grown"** means vegetables, butter, eggs, or other farm or garden products grown within a fifty (50) mile radius of the City.

Subd. 2. License Required.

It is unlawful for any transient merchant, hawker, peddler or solicitor to sell or offer for sale any merchandise or attempt to do any business in the City without having obtained a license from the Council to do so.

Subd. 3. Application for License.

In addition to the information required by Subd. 2, each applicant will provide the following:

A. The name and address of the applicant and of all persons associated with him/her in the business.

B. The type of business for which the license is desired.

C. The place where the business is to be conducted or carried out.

D. The name and address of the applicant's employer or employers for the last two years prior to the date of the application.

E. The length of time during which the applicant intends to do business within the City and the dates on which the sale or business will be conducted.

F. An itemized description of the goods or merchandise to be offered for sale.

G. A description of the nature and content of any advertising to be done to promote the sale of goods or merchandise.

H. If the sale is to be conducted by a person or persons other than the applicant, credentials from the applicant shall be furnished authorizing such person or persons to act as the representative of the applicant.

I. The applicant's Minnesota sales tax permit number.

Subd. 4. Bond Required.

No transient merchant, hawker or peddler license shall be issued unless and until the applicant shall have filed with the City a corporate surety bond in the penal sum of $2,000.00, or such greater amount as may be determined by the Council, with sufficient sureties and in favor of the City, but for the benefit of any residents who may sustain individual loss by means of fraud, artifice, trick or other means of theft practiced by the licensee on such resident. Provided, however, that a certificate evidencing such bond coverage and the availability of the penalty for the uses and purposes herein expressed, shall be sufficient to satisfy this Section without a separate bond, in order that the applicant might be spared the necessity for duplicate bonding.

Subd. 5. Duration of License.

Each license shall be valid for the period specified therein and no license will extend for a period longer than one (1) year.

Subd. 6. License Not Transferable.

Licenses issued under this Section shall be non-transferable.

Subd. 7. License to be Carried.

All licenses issued under this Section shall be carried by the licensee or conspicuously posted in his/her place of business and such licensee shall whenever requested show said license to any officer or citizen who demands to see the same.

Subd. 8. Person in Charge of Premises.

The owner or person in charge of any premises within the City who enters into an agreement with a transient merchant as defined herein to operate or temporarily conduct a transient merchant business on such premises shall be responsible for the conduct of such business on his/her premises, including the application for and obtaining of a license for such transient merchant business as provided in this Section.

Source: Ordinance No. 95, 3rd Series
Effective Date: 05-01-1992

Subd. 9. Fees.

A. Transient merchant, hawker, peddler or solicitor license fee to include the first three (3) operating days is $50.00.

1. In addition to the transient merchant, hawker, peddler or solicitor license fee a per diem of $10.00 per day shall be charged after the initial three (3) operating days.

Source: Ordinance No. 150, 3rd Series
Effective Date: 01-23-2004

B. Solicitation license fee - $25.00.

Subd. 10. Exclusions.

No applicant shall be required to apply for a license in the following cases:

A. For the conduct of business by appointment.

Source: Ordinance No. 95, 3rd Series
Effective Date: 05-01-1992

B. For the conduct of “Garage Sales” or “Rummage Sales” when conducted in or by a non-profit institution, or when conducted upon the premises of the owner of the articles being offered for sale, provided, that such sales do not last longer than three (3) consecutive days in any one (1) month period of time, and provided further, that such sales are adequately advertised by notices in a paper of local distribution or by placing of signs announcing the sale upon the premises.

Source: Ordinance No. 102, Second Series
Effective Date: 02-17-1994

C. For the conduct of “church bazaars” or other such “sales” or “fairs” when such events are conducted by non-profit institutions, provided such events do not last longer than 72 hours.

D. To any regularly scheduled community event such as, but not limited to the following: Wadena “Crazy” Days, Chamber of Commerce sponsored events, weekly flea markets, June Jubilee, Christmas Festival, and events of similar nature.

E. To any sale under Court Order.

F. To any bona fide auction sale of a City resident.

G. To any sale at wholesale to retail dealers only.

H. Persons making an initial uninvited call upon the householders of the City as preliminary to the subsequent establishment of a regular service on a minimum monthly service for the sale and delivery to customers.

I. Charitable organizations and representatives thereof, duly registered under the laws of Minnesota as set forth in Minnesota Statutes or specifically exempted from registration under the provisions thereof, including but not limited to schools, scouts, organized youth athletic leagues, social, fraternal, educational or related organizations and their representatives.

J. Farmers or truck gardeners who order for sale or sell, vegetables, butter, eggs or other farm or garden products which are locally grown, provided the sale of such items is restricted to the areas designated by the Council. Provided, that every such farmer or truck gardener shall upon request of the City Administrator/Clerk present satisfactory proof by means of sworn statements or otherwise, that such farmer or truck gardener is entitled to such license exemption; provided, further, that whoever shall execute a false sworn statement or make any false representations which shall induce the City to grant such exemption, shall upon conviction thereof, be deemed to be guilty of a misdemeanor.

Subd. 11. Prohibited Solicitation Practices.

It is unlawful for any transient merchant, hawker, peddler or solicitor to:

A. Engage in solicitation for any unlawful business or organizational purpose or activity.

B. Practice harassment, nuisance, theft, deceit or menacing, troublesome or otherwise unlawful activities during the course of solicitation.

C. Solicit to residential premises displaying at such entrance a sign with the words “Peddlers and Solicitors Prohibited” or “Solicitors Prohibited”.

D. Refuse to leave premises when requested by owner, lessee or person in charge thereof.

E. Call attention to his/her business or to his/her merchandise by crying out, by blowing a horn, by ringing a bell or by any loud or unusual noise.

F. Displaying merchandise, parking vehicles or placing temporary structure in such place or position as to prohibit or interfere with the movement of traffic or restrict the view of traffic on any City sidewalk, street or highway.

G. Displaying or selling merchandise on any right-of-way or public property.Soliciting to residential premises other than the hours between 8:00 A.M. through 8:00 P.M.

Source: Ordinance No. 95, 3rd Series
Effective Date: 05-01-1992

H. It is unlawful for any solicitor to offer for sale any of the following items at a flea market, except by an authorized manufacturer's representative:

1. Infant formula or other food intended primarily for consumption by a child under the age of two years;

2. Over-the-counter drugs, medical devices and cosmetics.

Source: Ordinance No. 125, Second Series
Effective Date: 06-05-1998

Subd. 12. Revocation.

A license issued pursuant to this Chapter may be revoked by the Council after notice and hearing for any of the following reasons:

A. Any fraud, misrepresentation or false statement contained in the application.

B. Any fraud, misrepresentation or false statement made in connection with the selling of the goods and merchandise offered for sale.

C. Any violation of any provisions of this Section.

D. The conduct of business by the applicant in an unlawful manner or in a manner which constitutes a breach of peace, nuisance or menace to the health, safety or general welfare of the public.

Subd. 13. Penalties.

Any person, firm, partnership, corporation or applicant who violates any provisions of this Section is guilty of a misdemeanor and upon conviction shall be punished in accordance with the State law.

Subd. 14. Investigation, Approval or Disapproval.

A. All applications for licensing or registration shall be immediately referred to the Chief of Police, and by him/her or other person acting in his/her stead, investigated as to the truth thereof. The Chief of Police shall have twenty-four (24) hours within which to investigate and make a recommendation thereon.

B. If he/she finds no past history of the applicant indicating violations similar to those declared unlawful in this Section, he shall recommend issuing a license or approving registration, as the case may be, and the City Administrator shall forthwith advise the applicant. The City Administrator shall issue a license, upon payment of the fee therefor, to the approved applicant for business solicitation.

C. If the Chief of Police finds a past history of the applicant indicating violations similar to those declared unlawful in this Section, he/she shall recommend denial of the license or registration. In all matters of recommended denial, the applicant shall be forthwith advised thereof, and the application shall be referred to the Council and considered by it at its next regular or special meeting occurring more than ten (10) days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.

Source: Ordinance No. 95, 3rd Series
Effective Date: 05-01-1992

SECTION 6.21. JUNK DEALERS.

Subd. 1. Definition.

The term "junk" as used in this Section means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags and wood.

Subd. 2. License Required.

It is unlawful for any person to deal in junk without having a license therefor from the City.

Subd. 3. (Repealed by Ordinance No. 18, 3rd Series, adopted 05-27-1981.)

Subd. 4. Requirement.

All requirements of the City Code including, but not by way of limitation, those provisions relating to zoning, shall be strictly adhered to. Failure of any licensee to observe all such provisions shall be grounds for license revocation.

SECTION 6.22. SALES OF CERTAIN TYPES.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. **"Fire and Other Altered Goods Sale"** means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by a fire, smoke, water or other means.

B. **"Going-out-of-Business Sale"** means a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued including but not limited to the following sales: Adjuster's; Adjustment; Alteration; Assignee's; Bankrupt; Benefit of Administrator's; Benefit of Creditors'; Benefit of Trustees; Building Coming Down; Closing; Creditor's Committee; Creditor's; End; Executor's; Final Days; Forced Out; Forced Out of Business; Insolvents'; Last Days; Lease Expires; Liquidation; Loss of Lease; Mortgage Sale; Receiver's; Trustee's; Quitting Business.

C. **"Goods"** means any goods, wares, merchandise or other property capable of being the object of a sale regulated hereunder.

D. **"Removal of Business Sale"** means a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location or will then continue business from other existing locations.

E. **"Sale"** means any fire or other altered goods sale, going-out-of-business sale, or removal of business sale.

Subd. 2. License Required.

It is unlawful for any person to conduct a sale as defined in this Section without a license therefor from the City.

Subd. 3. (Repealed by Ordinance No. 18, 3rd Series, adopted 05-27-1981.)

Subd. 4. Eligible Applicants and Exceptions.

A. No license shall be granted to a person who has not been the owner of the business owning the goods, and conducting the sale, for at least six months prior to the date of application, provided, that this Subparagraph shall not apply to heirs, devisees, legatees or personal representatives of the owner.

B. No license shall be granted at the same location within the period of two years.

C. No license shall be granted to a person who has been convicted of violating any provisions of this Section within five years prior to the application.

D. The provisions of this Section shall not apply to sales made by public officials in the performance of their duties or by persons acting pursuant to a Court order or legal process.

Subd. 5. Inventory.

The application for a sale license shall be accompanied by a detailed inventory of the goods to be sold.

Subd. 6. License Period.

Any license issued pursuant to this Section shall be for a period not to exceed sixty consecutive business days, provided, that upon good cause being shown the Council may renew such license for an additional period of sixty days.

Subd. 7. Nature of Sale.

The license shall authorize only the one type of sale described in the application and at the location described.

Subd. 8. Salable Goods.

The license shall authorize only the sale of goods described in the inventory attached to the application.

Subd. 9. Duties of Licensee.

Any licensee under this Section shall:

A. Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license.

B. Refrain from employing any untrue, deceptive or misleading advertising.

C. Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.

D. Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.

E. Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods.

Source: City Code
Effective Date: 01-01-1979

(Sections 6.23 through 6.29, inclusive, reserved for future expansion.)

SECTION 6.30. (Repealed by Ordinance No. 91, 3rd Series, adopted 11-13-1991.)

SECTION 6.31. SAUNA PARLOR AND MASSAGE PARLOR.

Subd. 1. Definitions.

As used in this Section, the following words and terms shall have the meanings stated:

A. The term "sauna" means a steam bath used for the purpose of bathing, relaxing, or weight reduction, utilizing steam as the agent therefor.

B. The term "sauna parlor" means any room or rooms wherein persons may, for a separate fee, receive a sauna.

C. The term "massage" means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse who works solely under the direction of such person, physical therapist, athletic director and trainer, or beautician and barber who confine their treatments to the scalp, face and neck.

D. The term "massage parlor" means any room or rooms wherein persons may, for a separate fee, receive a massage.

E. The term "masseur" means a male person who, for compensation, practices massage.

F. The term "masseuse" means a female person who, for compensation, practices massage.

Subd. 2. License Required.

It is unlawful for any person to operate a sauna parlor or a massage parlor without a license therefor from the City. It is unlawful for any person to practice massage in any place except upon licensed premises.

Subd. 3. License Application.

All initial applications for licenses to operate sauna parlors or massage parlors shall be accompanied by a non-returnable investigation fee. Applications shall contain the names and addresses of the owners, lessees and operators of the applicant, together with a description and location of the premises. The application shall also include information as to any convictions of any crime or offense committed by the applicant, together with such other information as the Council may require before consideration of the application. All applications by corporations shall include the names and

addresses of all persons having a beneficial interest therein. An investigation by the Building Inspector shall be conducted of all premises proposed to be licensed before consideration by the Council. The Police Department shall conduct an investigation of all persons proposed to be licensed before consideration by the Council. All applications shall thereafter be considered by the Council.

Subd. 4. (Repealed by Ordinance No. 18, 3rd Series, adopted 05-27-1981.)

Subd. 5. Restrictions and Regulations.

A. Licenses shall be granted only for operation upon fixed premises which must be located in a commercial or industrial district as established by the zoning laws of the City.

A. Licenses shall be granted only upon a showing of compliance with all laws of sanitation.

B. No beer, liquor, narcotic drug or controlled substances, as such terms are defined by State Statutes or the City Code shall be permitted on licensed premises.

C. Violation of any law or regulation relating to building, safety or health, shall be grounds for revocation of any license.

D. Only masseurs and masseuses who are licensed by the City shall practice massage.

E. Only masseurs shall be allowed to massage male customers and only masseuses shall be allowed to massage female customers.

Subd. 6. Construction and Maintenance Requirements.

A. All sauna rooms and restrooms and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold, and fungus growth. The floor-to-wall and wall-to-wall joists shall be constructed to provide a sanitary cove with a minimum radius of one inch. There shall be no locks on doors of sauna rooms or massage rooms nor on any other rooms in the licensed premises except on one business office, closets for the storage of supplies, and toilet rooms.

B. All toilet rooms used in connection with saunas shall be provided with mechanical ventilation with 2cfm per square foot of floor area, a minimum of 30 foot candles of illumination, a hand washing sink or sinks equipped with hot and cold running water under pressure, sanitary towels and soap dispenser.

C. Each sauna shall have a janitor's closet which shall be provided for the storage of cleaning supplies. Such closet shall have mechanical ventilation with 2cfm per

square foot of floor area and a minimum of 30 foot candles of illumination. Such closet shall include a mop sink.

D. Floors, walls, and equipment in sauna rooms, in restrooms, and in bathrooms used in connection therewith must be kept in a state of good repair and clean at all times. Linens and other materials shall be stored at least 12 inches off the floor. Clean towels and wash cloths must be made available to each customer.

E. Individual lockers shall be made available for use by patrons. Such lockers shall have separate keys for locking.

F. The premises shall contain adequate refuse receptacles, which shall be emptied at least daily.

SECTION 6.32. MASSEUR AND MASSEUSE LICENSE.

Subd. 1. Definitions.

A. As used in this Section, the following words and terms shall have the meanings stated:

B. The term "massage" means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse who works solely under the direction of such person, physical therapist, athletic director and trainer, or beautician and barber who confine their treatments to the scalp, face and neck.

C. The term "masseur" means a male person who, for compensation, practices massage.The term "masseuse" means a female person who, for compensation, practices massage.

Subd. 2. License Required.

It is unlawful for any person to practice massage without a license therefor from the City.

Subd. 3. License Application.

All applications for a license to practice massage shall be accompanied by a medical certificate from a physician duly licensed to practice medicine in the State of Minnesota stating that the applicant has no communicable disease. All initial applications shall be accompanied by a non-returnable investigation fee. Applications shall contain such other information as the Council may, from time to time, require. All applicants shall be at least eighteen (l8) years of age.

Subd. 4. (Repealed by Ordinance No. 18, 3rd Series, adopted 05-27-1981.)

Subd. 5. Restrictions and Regulations.

A. Whenever a massage is given it shall be required by the masseur or masseuse that the person who is receiving the massage shall have his buttocks, anus and genitals covered with an appropriate non-transparent covering.

B. Any masseur performing any massage shall at all times have his anus, buttocks and genitals covered with a non-transparent material.

C. Any masseuse performing massage shall at all times have her breasts, buttocks, anus and genitals covered with a non-transparent material.

D. (Repealed by Ordinance No. 81, 3rd Series, adopted 03-13-1990.)

Source: City Code
Effective Date: 01-01-1979

SECTION 6.33. SEXUALLY ORIENTED BUSINESSES.

Subd. 1. Purpose.

The purpose of this Section is to prescribe licensing requirements and regulation of sexually oriented businesses in order to protect the general health, safety and welfare of the citizens of the City, and to control certain land uses that may have a direct and detrimental effect on the character of the City's residential and commercial neighborhoods.

Subd. 2. Findings of the Council.

The Council makes the following findings regarding the need to license sexually oriented businesses. The findings are based upon the City's review and analysis of numerous studies, reports, articles, judicial decisions and the experience and legislative findings of other cities around the country concerning the impacts or "secondary effects" of sexually orientated businesses and the sale, distribution, and display of sexually oriented materials (collectively, "Sexually Oriented Business Activities") on the areas in which such activities are located or take place.

A. Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending licensed family day-care homes, state licensed group family day-care homes, and state licensed child care centers, clients attending state licensed developmental achievement centers, students attending school, and people using public parks and recreational areas.Sexually oriented businesses can be used as fronts for prostitution and other criminal activity thereby taxing crime prevention, law enforcement and public health services.

The experience of other cities indicates that the proper management and operation of the businesses can, however, minimize this risk, provided the owners and operators of the facilities are regulated by licensing or other procedures.

B. Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which the businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.

C. The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which the businesses are concentrated and on the overall quality of life in the community. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of the businesses is often perceived by others as an indication that the community or area is deteriorating and the result can be devastating to other businesses that may be required to move out of the vicinity and which could influence residents to relocate from the area. It has been noted that the presence of the businesses can have the overall effect of causing declining real estate values, which result can be exacerbated by the concentration of the businesses, which can erode the City's tax base and contribute to overall blight.

D. Sexually oriented businesses can increase the risk of exposure to communicable diseases including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that the businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of the establishments but also the general public.

E. Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

Subd. 3. Conclusion of the Council.

In direct furtherance of the substantial goals of public health, safety and welfare, the City adopts the following provisions, recognizing that it has a great interest in the present and future character of the City's residential and commercial neighborhoods.

Subd. 4. Definitions.

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

1. **"Adult Arcade/Mini Motion Picture Theater"** means any place which excludes minors from all or part of the establishment wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically,

or mechanically controlled or operated still or motion picture machines, projectors, video or laser disc players, or other image-producing devices (10% or more of the floor space) are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas as defined herein.

2. **"Adult Body Painting Studio"** means an establishment or business which provides the service of applying paint or other substances, (10% or more of the floor space) whether transparent or non-transparent to or on the body of a patron when such body is wholly or partially nude in terms of Specified Anatomical Area as defined herein.

3. **"Adult Bookstore, Adult Novelty Store or Adult Video and/or Media Store"** means a commercial establishment which excludes minors and which has a substantial portion of its stock in trade or stock (10% or more of the floor space) displayed as instruments, devices, or paraphernalia which are designed for use in connection with Specified Sexual Activities or displayed as books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas as defined herein.

4. **"Adult Cabaret"** means a commercial establishment which provides dancing or other live entertainment (10% or more of the floor space), which excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or by exposure of Specified Anatomical Areas, for observation or participation by patrons therein.

5. **"Adult Car Wash"** means a wash facility for any type of motor vehicle (10% or more of the floor space) that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of Specified Anatomical Areas.

6. **"Adult Conversation/Rap Parlor"** means a commercial establishment which provides the service of engaging in, listening to conversation talk or discussion, (10% or more of the floor space) which excludes minors by reason of age, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas, for observation or participation by patrons therein.

7. **"Adult Center"** means a commercial establishment which excludes minors by reason of age, and wherein (10% or more of the floor space) an admission is charged for entrance into the facility, or for food or beverages intended for consumption within the facility, wherein may be observed or which contains one

or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any Specified Sexual Activities or Specified Anatomical Areas.

8. **"Adult Health Club or Adult Sports Club"** means a business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health or sports-related goods, services, or equipment, from which minors are excluded by reason of age or that is distinguished or characterized (10% or more of the floor space) by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

9. **"Adult Hotel or Motel"** means a hotel or motel or similar commercial establishment from which minors are specifically excluded from patronage and which:

a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on matter depicting, describing or relating to Specified Anatomical Areas or Specified Sexual Activities;

b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

c. Allows tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

10. **"Adult Massage Parlor"** means a commercial establishment which provides the service of "massage" (10% or more of the floor space), which excludes minors by reason of age, if such service is distinguished by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation or participation by patrons therein.

11. **"Adult Modeling Studio"** means an establishment, which excludes minors from all or part of the establishment, and whose major business (10% or more of the floor space) is the provision to customers, of figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

12. **"Adult Motion Picture Theater"** means a commercial establishment from which minors are excluded by reason of age, where for any form of consideration, films, motion pictures, video cassettes, slides, DVD's or similar

photographic reproductions are regularly shown (10% or more of the floor space) which are characterized by the depiction or description of Specified Sex Activities or Specified Anatomical Areas.

13. **"Adult Sauna"** means a commercial establishment which provides a steam bath or hot air bathing, and/or massage services (10% or more of the floor space) which excludes minors by reason of age where such service(s) is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation or participation by patrons therein.

14. **"Adult Steamroom/Bathhouse"** means an establishment providing a steam bath or heat bathing for the pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent (10% or more of the floor space) which excludes minors by reason of age where such service(s) is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas, for observation or participation by patrons therein.

15. **"Adult Theater"** means a theater, concert hall, auditorium or similar commercial establishment from which minors are excluded from all or part of the establishment, (10% or more of the floor space) which regularly features live performances which are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities for observation or participation by patrons therein.

16. **"Minor"** means any person under the age of 18 years.

17. **"Nudity"** means the showing of the human male or female genitals or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

18. **"Sexually Oriented Business/Adult Establishment**" means any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas. Specifically included in the term but without limitation are adult arcade/mini-motion picture theater, adult body painting studio, adult book store, novelty store or video/media store, adult cabaret, adult car wash,, adult conversation/rap parlor, adult entertainment center, adult health club/sports club, adult hotel or motel, adult massage parlor, adult modeling studio, adult motion picture theater, adult sauna, adult steam room/bathhouse, adult theater, and any other sexually oriented business/adult establishments.

19. **"Specified Anatomical Areas"** means:

a. Less than completely and opaquely covered human genitals, pubic region, pubic hair, buttocks, anus or female breast(s) 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.

20. **"Specified Criminal Activity"** means any of the following offenses: Any unlawful lewd, or immoral conduct, including specifically, but without limitation any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

a. Sections 609.293 to 609.365 of the Minnesota Criminal Code(Sex Offenses).

b. Sections 617.23 to 617.299 of the Minnesota State Statute (Obscenity Statute).

c. Sections 152.01 to 152.21 of the Minnesota State Statute (Controlled Substances Law).

21. **"Specified Sexual Activity"** shall mean and include the following:

a. An act of sexual intercourse, normal or perverted, actual or simulated, including genital to genital, anal to genital, or oral to genital intercourse, whether between human beings or between a human being and an animal.

b. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.

c. Masturbation actual or simulated, or lewd exhibitions of the genitals including any explicit close-up representation of a human genital organ clothed or unclothed.

d. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breast of a 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.

e. Excretory function as part of or in connection with any of the activities set forth in this definition.

Subd. 5. License Required - Application and Fees.

A. All establishments, including any business operating at the time this Section becomes effective, operating or intending to operate a sexually oriented business, shall apply for and obtain a license from the City. A person is in violation of this Section if he or she operates a sexually oriented business without a valid license, issued by the City.

B. An application for a license must be made on a form provided by the City.

C. All applicants must be qualified according to the provisions of this Section. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant(s) meet the qualifications established in this Section.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as an applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following provisions and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;

b. a partnership, the partnership shall state its complete name, and the names and dates of birth of all partners whether the partnership is general or limited, and a true copy of the partnership agreement;

c. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the state of incorporation, the names, dates of birth and capacities of all officers, directors and principal stockholders, and the name and date of birth of the registered corporate agent(s), manager(s), proprietor(s) or other agent(s) in charge of the business and the address of the registered office for service of process.

2. The name of the owner of the property where the sexually oriented business is to be located; if a corporation then the names of the principal owners of the corporation.

3. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding two years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.

4. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he/she must state (a) the sexually oriented business's fictitious name and (b) submit the required registration documents.

5. Whether the applicant, or a person residing with the applicant, has been convicted of a Specified Criminal Activity as defined in this Section, and if so, the Specified Criminal Activity involved, the date, place, and jurisdiction of each.

6. Whether the applicant, or a person residing with the applicant has had a previous license under this Section or other similar sexually oriented business ordinances from another city, county or state denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Section whose license has previously been denied, suspended or revoked including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial suspension or revocation.

7. Whether the applicant or a person residing with the applicant holds any other licenses under this Section or other similar sexually oriented business ordinance from another city, county, or state and, if so, the names and locations of such other licensed businesses.

8. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone, if any.

9. The applicant's mailing address, residential address, and phone number.

10. The applicant's driver's license number, Social Security number, and/or his/her State or Federally issued tax identification number.

11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

12. A straight-line drawing prepared within thirty (30) days prior to application depicting the property lines and the structures containing any existing sexually oriented businesses within 1,500 feet of the property to be licensed; the property lines of any established religious institution, school or public park or recreation area within 1,500 feet of the property to be licensed. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the Council for accuracy. In the event of a dispute between the applicant and the City as to the accuracy of the drawing, the City may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.

13. Copy of lease and all financing documents, all business related contracts for supply of material and consulting management.

14. The name, address and phone number of two persons who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's character.

15. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee which shall be set by Council resolution and amended from time to time.

16. All license applications and fees shall be submitted to the City Administrator.

Subd. 6. Issuance of License.

A. Upon the filing of said application for a sexually oriented business license, said application shall be referred to the appropriate City departments for an investigation to be made on such information as is contained in the application. The application process shall be completed within sixty (60) days from the date the completed application is filed. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected. After the investigation the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is not eighteen (18) years of age or older on the date the application is submitted to the City.

2. An applicant or a person with whom the applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

4. An applicant, or a person with whom the applicant is residing, has been denied a license by the City or any other jurisdiction to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate sexually oriented business has been revoked within the preceding twelve (12) months.

5. An applicant, or a person with whom the applicant is residing, has been convicted of a Specified Criminal Activity as defined herein, for which:

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

b. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the first conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

c. The fact that a conviction of applicant or a person with whom the applicant is residing, is being appealed shall have no effect on disqualification of the applicant.The license fee required by this Section has not been paid.

d. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Section.

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to this Section. All licenses shall be posted in a conspicuous, unobstructed place, at or near the entrance to the sexually oriented business so that they may be easily read at any time.

Subd. 7. Inspection.

A. An applicant or licensee shall permit representatives of the Police Department, Fire Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with this Section, at any time it is open for business and/or occupied.

B. A person who operates a sexually oriented business or his/her agent or employee commits a violation of this section if he/she refuses to permit such lawful inspection of the premises at any time it is open for business and/or occupied. Refusal to permit inspections may result in the suspension of the license as provided in this Section.

C. **Exceptions.** The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Subd. 8. Expiration of License.

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least sixty (60) days before the expiration date.

B. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial, subsequent to denial the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

Subd. 9. Regulation of Sexually Oriented Businesses.

A. All licensed sexually oriented businesses shall comply with the provisions of this Section, all other applicable City Code provisions, and all other applicable Federal and State laws.

B. No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, searchlights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. This Subdivision shall apply to any advertisement, display, promotional material, decoration or sign; to any performance or show, and to any window, door, or other opening.

C. No sexually oriented business, except for an adult motel may be open on Christmas Eve Day, Christmas Day, Thanksgiving or Sundays, or remain open at any time between the hours of one o’clock (1:00) a.m. and ten o’clock (10:00) a.m. on weekdays and Saturdays.

D. No sexually oriented business shall have on-sale or off-sale and/or consume liquor on the premises or operate in the same building as a business that does.

E. All performers, dancers and persons providing live entertainment shall be a minimum of ten (10) feet from patrons and on a platform at least two (2) feet high.

F. There shall be no physical contact (including caressing or fondling) between patrons and dancers/performers.

G. No customer, patron, or spectator shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

H. Individual motion picture viewing booths must be without doors and the occupant must be visible from the room in which the booth is located. Only one person at a time is allowed in a viewing booth and the booth must be clean and sanitary.

I. Walls separating booths must be such that an occupant cannot engage in sexual activity with an occupant of another booth.

J. All entrances to sexually oriented businesses, with the exception of emergency fire exits, which are not usable by patrons to enter the business, shall be visible from a public right-of-way.

K. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

L. A person commits a violation of this Section if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

Subd. 10. Suspension/Revocation.

A. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any provision of this Section;

2. Engaged in the use of alcoholic beverages while on the Sexually Oriented Business premises other than at an Adult Hotel or Motel;

3. Refused to allow an inspection of the Sexually Oriented Business premises as authorized by this Section;

4. Knowingly permitted gambling by any person on the Sexually Oriented Business premises;

5. Demonstrated inability to operate or manage a Sexually Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

B. The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.

C. The City shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;

2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

3. A licensee or an employee has knowingly allowed prostitution on the premises;

4. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

5. A licensee has been convicted of an offense defined herein as "Specified Criminal Activity" for which the required time period listed in this Section has not elapsed;

6. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime herein defined as "Specified Criminal Activity" for which a conviction has been obtained, and the person or persons were employees of the Sexually Oriented Business at the time the offenses were committed;

7. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises. This provision does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view; or,

8. A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due or issued NSF (non-sufficient funds) checks to the City, County, or State.

D. When the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation the City finds that the basis for the revocation has been corrected or abated, the

applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

E. Within ninety (90) days after denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction.

F. A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof

Subd. 11. Transfer of License.

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Subd. 12. Penalty.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this Section, is guilty of a misdemeanor as defined in this Chapter. Each day such violation continues shall constitute a separate offense.

Source: Ordinance No. 148, 3rd Series
Effective Date: 10-24-2003

(CODIFIER'S NOTE: Also See Chapter 11, Section 11.25, Sexually Oriented Businesses-Zoning).

(Sections 6.34 through 6.39, inclusive, reserved for future expansion.)

Pages 34 - 39 inclusive, are reserved for future expansion

SECTION 6.40. TOBACCO.

Subd. 1. Purpose.

Because 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; and because 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; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Section shall be 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 illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke in MN Stat. §144.391.

Subd. 2. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

1. **"Tobacco" or "Tobacco Products"** means any substance or item containing tobacco leaf, including but not limited to, cigarettes; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

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

3. **"Self-Service Merchandising"** means open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall 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 shall not include vending machines.

4. **“Vending Machine”** means any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

5. **“Individually Packaged”** means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this Subdivision shall not be considered individually packaged.

6. **"Loosies”** means the common term used to refer to a single or individually packaged cigarette.

7. **“Minor”** means any natural person who has not yet reached the age of eighteen (18) years.

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

9. **“Movable Place of Business”** refers to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

10. **“Sale”** means any transfer of goods for money, trade, barter, or other consideration.

11. **“Compliance Checks”** means the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this Section. Compliance checks shall involve the use of minors as authorized by this Section. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws or regulations, or City Code provisions relating to tobacco, tobacco products, and tobacco related devices.

Subd. 3. License.

It is unlawful for any person to 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. The issuance of a license issued under this Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

A. **Application.** An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, 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 Administrator shall forward the application to the Council for action at its next regularly scheduled meeting. If the City Administrator shall determine that an application is incomplete, he/she shall return the application to the applicant with notice of the information necessary to make the application complete.

B. **Action.** The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

C. **Term.** All licenses issued under this Section shall be valid for one calendar year which shall be from January 1 through December 31.

D. **Revocation or Suspension.** Any license issued under this Section may be revoked or suspended as provided in the Violations and Penalties provisions of this Section.

E. **Transfers.** All licenses issued under this Section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.

F. **Movable Place of Business.** No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this Section.

G. **Display.** All licenses shall 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 Section shall be handled in the same manner as the original application. The request for a renewal shall be

made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

I. **Number of Licenses.** The number of licenses which the Council may issue shall be a maximum of twenty (20) in any one year.

Subd. 4. Fees.

No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license under this Section shall be $75.00. (This new fee will be effective January 1, 1999.)

Subd. 5. Basis for Denial of License.

The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section.

A. The applicant is under the age of 18 years.

B. The applicant has been convicted within the past five years of any violation of a Federal, State or local law, City Code provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve (12) months of the date of application.

D. The applicant fails to provide any information required on the application, or provides false or misleading information.

E. The applicant is prohibited by Federal, State or other local law, City Code provision, or other regulation, from holding such a license.

Subd. 6. Prohibited Sales.

It is a violation of this Section for any person to sell or offer for sale any tobacco, tobacco product, or tobacco related device:

A. To any person under the age of eighteen (18) years.

B. By means of any type of vending machine.

C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or the licensee's employee, and the customer.

D. By means of loosies as defined in this Section.

E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of any otherwise lawful manufacturing process.

F. By any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, City Code provision, or other regulation.

Subd. 7. Vending Machines.

It is unlawful for any person licensed under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.

Subd. 8. Self-Service Sales.

It is unlawful for a licensee under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this Section is adopted shall comply with this Section within ninety (90) days following the effective date of this Section.

Subd. 9. Responsibility.

All licensees under this Section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this Section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State or Federal law, or other applicable law or regulation.

Subd. 10. Compliance Checks and Inspections.

All licensed premises shall be open to inspection by the Police Department during regular business hours. From time to time, but at least once per year, the Police Department shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained or attempted to be obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in compliance checks shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Subd. 11. Other Illegal Acts.

Unless otherwise provided, the following acts shall be a violation of this Section:

A. **Illegal Sales.** It is a violation of this Section for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.

B. **Illegal Possession.** It is a violation of this Section for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This Subparagraph shall not apply to minors lawfully involved in a compliance check.

C. **Illegal Use.** It is a violation of this Section for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

D. **Illegal Procurement.** It is a violation of this Section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it is also a violation of this Section for any person to purchase or otherwise obtain such items on behalf of a minor. It is further a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This Subparagraph shall not apply to minors lawfully involved in a compliance check.

E. **Use of False Identification.** It is a violation of this Section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the

person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 12. Violations.

A. **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

B. **Hearings.** If a person accused of violating this Section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

C. **Hearing Procedure.** The Council will approve appointment of an appeal board.

D. **Decision.** If the hearing officer determines that a violation of this Section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under the Penalties provisions of this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the accused violator.

E. **Appeals.** Appeals of any decision made by the hearing officer shall be filed in the District Court for the jurisdiction of the city in which the alleged violation occurred.

F. **Misdemeanor Prosecution.** Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Section. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

G. **Continued Violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subd. 13. Penalties.

A. **Licenses.** Any licensee found to have violated this Section, or whose employee shall have violated this Section, shall be charged an administrative fee of $75.00 for a first violation of this Section; $200.00 for a second offense at the same licensed premises within a twenty-four month period; and $250.00 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven (7) days.

B. **Other Individuals.** Other individuals, other than minors regulated by Subparagraph C, below, found to be in violation of this Section shall be charged an administrative fee of $50.00.

C. **Minors.** Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be handled by the criminal justice system.

D. **Misdemeanor.** Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this Section.

Subd. 14. Exception and Defenses.

Nothing in this Section 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 the violation of this Section for a person to have reasonably relied on proof of age as described by State law.

Subd. 15. Severability and Savings Clause.

If any provision of this Section shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other provision of this Section.

Source: Ordinance No. 114A, 3rd Series
Effective Date: 01-22-1998

(CODIFIER'S NOTE: Tobacco is also covered in Section 10.02 of the City Code.)

SECTION 6.41 (Repealed by Ordinance No. 51, 3rd Series, adopted 02-13-1985.)

SECTION 6.42 (Repealed by Ordinance No. 51, 3rd Series, adopted 02-13-1985.)

SECTION 6.43 PAWNBROKERS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

1. "Pawnbroker" means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

2. "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.

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

4. "Pledged Goods" means tangible personal property other than a chose in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

Subd. 2. License Required.

A. It is unlawful for any person to engage in the business as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.

B. A separate license is required for each place of business. The City may issue more than one license to a person if that person complies with this Section for each license.

C. No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor.

D. The Chief of Police shall be notified by the City of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this Section.

Subd. 3. Persons Disqualified.

No license under this Section may be issued or renewed to a person who (a) is a minor; (b) has been convicted of any crime related to the occupation of pawnbroker; or (c) is not of good moral character or repute.

Subd. 4. Unemployment Clearance Required.

No license shall be granted, transferred, or renewed and shall be revoked if the Commissioner notifies the City that the licensee owes the State delinquent unemployment insurance contributions, reimbursements, or benefit overpayments.

Subd. 5. Change in Ownership.

Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

Subd. 6. Pawn Tickets.

A. **Entries of Pawn Tickets.** At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the City:

1. A complete and accurate description of the property, including model and serial number if indicated on the property;

2. The full name, residence address, residence telephone number, and date of birth of the pledgor or seller;

3. The date and time of pawn or purchase transaction;

4. The identification number and State of issue from one of the following forms of identification of the seller or pledgor: current valid Minnesota driver's license; current valid Minnesota identification card; or current valid photo identification card issued by another State or Province of Canada;

5. Description of the pledgor including approximate height, sex, and race;

6. Amount advanced or paid;

7. The maturity date of the pawn transaction and the amount due; and

8. The monthly and annual interest rates, including all pawn fees and charges.

B. **Printed Pawn Ticket.** The following shall be printed on all pawn tickets:

1. The statement that "Any personal property pledged to a pawnbroker within this State is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods.";

2. The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.";

3. The statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record; and

4. A blank line for the pledgor's signature.

Subd. 7. Records; Retention.

A. The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.

B. The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.

Subd. 8. Effect of Non-Redemption.

A. A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.

B. The pawnbroker's right, title, and interest in the pledged goods under this Subdivision is qualified only by the pledgor's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.

C. A pawn transaction that involves holding only the title to property is subject to MN Stat. Chapter 168A or 336.

Subd. 9. Permitted Charges.

A. A pawnbroker may contract for and receive a pawnshop charge not to exceed 3% per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed $20.00 if the property is not in the possession of the pawnbroker.

B. The pawnshop charge allowed under this Subdivision shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be

deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.

C. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this Section.

D. Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this Section, shall be uncollectible and the pawn transaction shall be void.

E. A schedule of charges permitted by this Section shall be posted on the pawnshop premises in a place clearly visible to the general public.

Subd. 10. Records; Prohibitions.

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

A. Make any false entry in the records of pawn transactions;

B. Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions;

C. Refuse to allow the appropriate law enforcement agency, the Attorney General, or any other duly authorized State or Federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;

D. Fail to maintain a record of each pawn transaction for three years;

E. Accept a pledge or purchase property from a person under the age of 18 years;

F. Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Section, or providing for a maturity date less than one month after the date of the pawn transaction;

G. Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in State Statutes, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to State Statutes, or the pledged goods have been taken into custody by a Court or a law enforcement officer or agency;

H. Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;

I. Sell or otherwise charge for insurance in connection with a pawn transaction; or

J. Remove pledged goods from the pawnshop premises or other storage place approved by the City at any time before unredeemed, pledged goods are sold pursuant to Statute.

Subd. 11. Redemption; Risk of Loss.

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

Subd. 12. Motor Vehicle Title Pawn Transactions; Special Provisions.

A. In addition to the other requirements of this Section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:

1. Be licensed as a used motor vehicle dealer under MN Stat. Chapter 168, and post such license on the pawnshop premises;

2. Verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety; and

3. Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

B. A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

Subd. 13. Transition.

Pawnbrokers that are in business when the City adopts an ordinance [under this Chapter] must apply for a license and pay the required fee within six months of adoption of the ordinance.

Subd. 14. Violation.

A violation of this Section is a misdemeanor.

Source: Ordinance No. 125, 3rd Series
Effective Date: 06-05-1998

SECTION 6.44 KENNELS.

Subd. 1. Defined.

For the purpose of this Section, the term "kennel" means any place, building, tract of land, abode or vehicle, wherein or whereon three or more dogs, over six months of age, are kept, kept for sale, or boarded.

Subd. 2. License Required.

It is unlawful for any person to operate or maintain a kennel without a license therefor from the City.

Subd. 3. License Fee.

The annual fee for a kennel license is $l0.00.

Subd. 4. Exception.

Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this Section.

Subd. 5. Zoning.

No license shall be issued to a person for operation of a kennel in the R-l and R-2 Zoning Districts of the City.

Source: Ordinance No. 68, 3rd Series
Effective Date: 04-22-1987

(Sections 6.45 through 6.49, inclusive, reserved for future expansion.)

SECTION 6.50. GARBAGE AND REFUSE HAULERS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. The term "garbage" means all putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes.

B. The term "other refuse" means ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrescible wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

Subd. 2. License Required.

It is unlawful for any person to haul garbage or other refuse for hire without a license therefor from the City, or to haul garbage or other refuse from his/her own residence or business property other than as herein excepted.

Subd. 3. License Fee. (Repealed by Ordinance No. 18, 3rd Series, adopted 05-27-1981.)

Subd. 4. Exception.

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

Subd. 5. Hauler Licensee Requirements.

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

Source: City Code
Effective Date: 01-01-1979

B. Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the City Clerk-Treasurer evidence that he/she has provided public liability insurance on all vehicles in at least the sum of $100,000.00 for the injury of one person, $300,000.00 for the injury of two or more persons in the same accident, and $50,000.00 for property damages.

Source: Ordinance No. 18, 3rd Series
Effective Date: 06-18-1981

C. Licensees shall deliver all refuse to the sanitary land-fill and shall be required to pay non-resident rates for any refuse collected outside the City. Collection outside the City and failure to pay non-resident rates therefor shall be grounds for revocation of the license.

D. The Council, in the interest of maintaining healthful and sanitary conditions in the City, hereby reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.

E. Each applicant shall file with the City Clerk-Treasurer, before a garbage and refuse hauler's license is issued or renewed, a schedule of proposed rates to be charged by him/her during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Nothing herein shall prevent a licensee from petitioning the Council for review of such rates during the licensed period, and the Council may likewise consider such petition and make new rates effective at any time. No licensee shall charge rates in excess of the rates approved by the Council.

SECTION 6.51 TAXICABS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. The term "taxicab" means any passenger conveyance being driven, on call or traversing a scheduled or unscheduled route for public use or hire upon payment of a fare or at regular fare rates, but not including such as are designed for mass transportation as buses, trains or streetcars.

B. The term "operator" means a licensee owning or otherwise having control of one or more taxicabs.

C. The term "driver" means the person driving and having physical control over a taxicab whether he/she be the licensee or in the employ of the licensed operator.

Subd. 2. License Required.

It is unlawful for any person to drive or operate a taxicab without a license therefor from the City.

Source: City Code
Effective Date: 01-01-1979

Subd. 3. Number of Licenses.

The maximum number of licenses that will be allowed is to one (1) taxicab operator per year. This one operator will be allowed to have more than one cab as volume requires.

Source: Ordinance No. 143, 3rd Series
Effective Date: 03-02-2001

Subd. 4. (Repealed by Ordinance No. 18, 3rd Series, adopted 05-27-1981.)

Subd. 5. License Issuance and Display, and Vehicle Marking.

All licenses shall be issued for specific conveyances, except as otherwise herein provided. License tags, including number and year for which issued, shall be plainly visible from the front of the conveyance. Both sides of every licensed taxicab, when in use, shall be plainly and permanently marked as such with a painted sign or appurtenances showing the full or abbreviated name of the licensed operator.

Source: City Code
Effective Date: 01-01-1979

Subd. 6. Insurance Required.

Before a taxicab license is issued by the Council, and at all times effective during such licensed period, the licensee shall have and maintain public liability and bodily injury insurance in the amount of $50,000.00 for any one person and $100,000.00 for two or more persons injured in any one accident, as well as $25,000.00 property damage insurance. Such insurance shall cover all passengers carried by the insured licensee and shall be for public taxicab purposes.

Source: Ordinance No. 18, 3rd Series
Effective Date: 06-18-1981

Subd. 7. Rates.

The licensee shall file with the City Administrator before a taxicab license is issued or renewed, a schedule of proposed maximum rates to be charged by the licensee during the licensed period for which the application is made. The schedule of proposed maximum rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Such schedule shall be posted in a conspicuous place in the taxicab in full view of passengers riding therein. Nothing herein shall prevent a taxicab licensee from petitioning the Council for review of such rates during the licensed period, and the Council may likewise consider such petition and make new

rates effective at any time. No taxicab licensee shall charge rates in excess of maximum rates approved by the Council.

Source: Ordinance No. 143, 3rd Series
Effective Date: 03-02-2001

Subd. 8. Mechanical Condition.

Before issuing a taxicab license, the applicant shall present to the Council a certificate signed by a competent and experienced mechanic showing that the taxicab conveyance is in good mechanical condition, that it is thoroughly safe for transportation of passengers and that it is in neat and clean condition. Such similar certificate may be required from time to time during the licensed period. In lieu of such certificate the Council may accept the report of the Chief of Police relative thereto. Provided, further, that the Chief of Police, or his/her delegate, shall reinspect and recertify each such vehicle every sixty days.

Source: City Code
Effective Date: 01-01-1979

(Sections 6.52 through 6.98, inclusive, reserved for future expansion.)

SECTION 6.99. VIOLATION A MISDEMEANOR.

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

Source: City Code
Effective Date: 01-01-1979

CHAPTER 7

STREETS AND SIDEWALKS GENERALLY

(THIS CHAPTER CONTAINS PROVISIONS AS TO SCOPE AND APPLICATION RELATING TO CHAPTERS 8 AND 9 AS WELL AS THIS CHAPTER)

SECTION 7.01. APPLICATION.

Subd. 1. Chapters Applicable

The provisions of Chapters 7, 8 and 9 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 Chapters 7, 8 and 9.

Subd. 2. Persons Subject

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 Chapters 7, 8 and 9 applicable to the driver of a vehicle, except those provisions which by their nature can have no application. Provisions specifically referring to bicycle shall be in addition to other provisions of these Chapters applying to vehicles.

SECTION 7.02. SCOPE AND ORDERS OF POLICE OFFICERS.

Subd. 1. Scope.

The provisions of Chapters 7, 8 and 9 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.

Subd. 2. 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 or peace officer invested by law with authority to direct, control or regulate traffic.

SECTION 7.03. TRAFFIC AND PARKING CONTROL.

Subd. 1. 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.

Subd. 2. Temporarily Restricting or Directing Traffic and Parking; Curb Painting.

A. 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, acting through the Chief of Police, who shall be ultimately responsible to the Council for the proper enforcement thereof.

B. 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 and in compliance with the provisions of Chapters 7, 8 and 9.

C. It is unlawful to use traffic or parking lanes contrary to sign-posting or marking authorized and described in this Section.

D. Experimental restrictions and directions may be placed on traffic and parking by the City, acting through the Chief of Police, and it shall be his/her 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.

Source: City Code
Effective Date: 01-01-1979

SECTION 7.04. ICE & SNOW ON STREETS, SIDEWALKS AND OTHER PUBLIC SAFETY.

Subd. 1. Ice and Snow Nuisance.

All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or responsible tenant of the abutting private property within twenty-four hours after such snow or ice has ceased to be deposited.

Subd. 2. City to Remove Snow and Ice.

The City may cause without advance notice all snow and ice to be removed from all public sidewalks, beginning twenty-four hours after snow or ice has ceased to fall, and it shall keep a record of the cost of such removal and the private property abutting to which such accumulations were found and removed.

Subd. 3. Cost of Removal to be Assessed.

The City Administrator shall, upon direction of the Council, and on receipt of the information provided for in the preceding Subdivision, extend the cost of such removal of snow or ice as a special assessment against the lots or 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.

Subd. 4. 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 Subdivision 2 hereof, the cost of such clearing and the cost and disbursements of a civil action therefor.

Subd. 5. 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, driveways, sidewalks, parking lots 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 and boulevards other than the boulevards adjacent to their property. It is also a misdemeanor to place snow on the property of another person without approval.

Subd. 6. Public Safety.

It is a misdemeanor to allow rainwater, ice or snow to fall directly from any building or building roof downspouts upon any street or sidewalk or flow across any sidewalk as to cause a safety hazard.

Source: Ordinance No. 118, 3rd Series
Effective Date: 05-22-1998

SECTION 7.05. REGULATION OF GRASS, WEEDS AND TREES IN STREETS.

Subd. 1. City to Control Tree Planting (Standards).

The City shall have control and supervision of planting shrubs and trees upon, or overhanging, all streets or 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 Clerk-Treasurer and may be revised from time to time by action of the Council upon the recommendation of the City Clerk-Treasurer.

Subd. 2. Permit to Plant or Remove Trees.

It is a misdemeanor for any person to plant or remove any tree upon or overhanging streets, without first procuring from the City a permit in writing to do so.

Subd. 3. Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs.

Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of eight inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefor, trim, cut, remove, and otherwise maintain all trees and shrubs in unhazardous and healthy condition, from the line of such property nearest to such street to the center thereof.

Subd. 4. 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.

Subd. 5. Assessment.

If such maintenance work described in the foregoing Subdivision is performed by the City, the City Clerk-Treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk-Treasurer shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

SECTION 7.06. CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER.

Subd. 1. Methods of Procedure.

A. 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.

B. With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with §429.011, as the same may from time to time be amended.

Subd. 2. Permit Required.

It is a misdemeanor to construct or reconstruct 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 City Clerk-Treasurer. 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. All applications shall be referred by the City Clerk-Treasurer to the Council and no permit shall be issued until approval has been received from the Council. All such applications shall contain an agreement by the applicant to be bound by this Chapter and plans and specifications consistent with the provisions of this Chapter and good engineering practices shall also accompany the application. A permit from the City shall not relieve the holder from damages to the person or property of another caused by such work.

Subd. 3. Specifications and Standards.

All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the City Clerk-Treasurer and open to inspection and copying there. Such specifications and standards may be amended from time to time by the City, but shall be uniformly enforced.

Subd. 4. Inspection.

The Council shall designate a suitable and competent person to perform inspections required herein and such other inspection of such work as deemed necessary. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

SECTION 7.07. STREET OPENINGS OR EXCAVATIONS.

It is a misdemeanor for any person, except a City employee acting within the course and scope of his/her employment or a contractor acting within the course and scope of a contract with the City, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the City Clerk-Treasurer as herein provided.

Subd. 1. Application.

Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City Clerk-Treasurer.

Subd. 2. Investigation and Payment of Estimated Costs.

Upon receipt of such application, the City Clerk-Treasurer shall cause such investigation to be made as he/she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigation shall be included in such estimate.

Subd. 3. Issuance of Permit.

The City Clerk-Treasurer shall issue such permit after (a) completion of such investigation, (b) payment by the applicant in advance of all estimated costs as aforesaid; (c) agreement by the applicant to the conditions of time and manner as aforesaid; and, (d) agreement in writing by the applicant to pay all actual cost of repairs over and above such estimate, including cost of such investigation.

Subd. 4. Repairs.

All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the City in a manner prescribed by the City, and an accurate account of costs thereof shall be kept.

Subd. 5. Cost Adjustment.

Within sixty days following completion of such permanent repairs the City Clerk-Treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to such permit holder an itemized statement thereof and claim additional payment from, or make refund to, the permit holder, as the case may be.

Subd. 6. Alternate Method of Charging.

In lieu of the above provisions relating to cost and cost adjustment for street openings, the City may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

SECTION 7.08. REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.

Subd. 1. 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.

Subd. 2. 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.

Subd. 3. Waiver.

The Council may waive the requirements of this Section only if it finds the effects thereof are burdensome and upon such notice and hearing as the Council may deem necessary or proper.

Source: City Code
Effective Date: 01-01-1979

(Sections 7.09 through 7.19, inclusive, reserved for future expansion.)

SECTION 7.20. OBSTRUCTIONS, FIRE, DUMPING, SIGNS AND OTHER STRUCTURES.

Subd. 1. 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 Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction unless it provides at least as much clearance above the surface as provided in the National Electric Code.

Subd. 2. Dumping in Streets.

It is unlawful for any person to throw or deposit in any street or any other public property 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 Subdivision 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 Minnesota Statutes) removed, except such vehicles as are temporarily disabled for a period not in excess of twelve hours.

Subd. 3. 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 Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of the City Code.

Subd. 4. Continuing Violation.

Each day that any person continues in violation of this Section shall be a separate offense, and punishable as such.

SECTION 7.21. LIMITING SPEED OF RAILROAD TRAINS.

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 operate such equipment at a greater rate of speed than is reasonable and proper, having due regard to the conditions then existing.

SECTION 7.22. LOAD LIMITS.

The Council, upon the recommendation of the Chief of Police, 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.

SECTION 7.23. CURB SET-BACK.

Subd. 1. Permit Required.

It is unlawful 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 Council and obtaining a permit therefor.

Subd. 2. Agreement Required.

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 set-back area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove such set-back and reconstruct the area as was at the expense of the landowner, his/her heirs or assigns if the area ever, in the Council's opinion becomes a public hazard. Such agreement shall be recorded in the office of the County Recorder, and shall run with the adjoining land.

Subd. 3. 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 set-back areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in such set-back areas, as such angle parking is herein described and allowed.

Subd. 4. Public Rights Preserved.

Such set-back 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.

SECTION 7.24. CURB & GUTTER, STREET & 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 uni-

formly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the City.

SECTION 7.25. SIDEWALK MAINTENANCE AND REPAIR.

Subd. 1. Primary Responsibility.

It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Construction, Reconstruction and Repair Specifications.

All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the City Clerk-Treasurer.

Subd. 3. Notice - No Emergency.

Where, in the opinion of the Public Works Superintendent, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ninety days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 4. Notice - Emergency.

Where, in the opinion of the Public Works Superintendent, an emergency exists, notice of the required repair or reconstruction may be given to the owner of the abutting property. Such notice shall require completion of the work within ten days, and may be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 5. Failure of Owner to Reconstruct or Make Repairs.

If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the City Clerk-Treasurer may report such failure to the Council and the Council may order such work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

Subd. 6. Duty to Inspect.

In order to accomplish the purpose of this Section, it may be the duty of the Public Works Superintendent to inspect sidewalks within the City, or cause the same to be inspected under his/her direction.

Source: Ordinance No. 20, 3rd Series
Effective Date: 06-18-1981

(Sections 7.26 through 7.98, inclusive, reserved for future expansion.)

SECTION 7.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Misdemeanor.

Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he/she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he/she shall be punished as for a misdemeanor; where he/she 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, he/she shall be punished as for a misdemeanor.

Subd. 2. Petty Misdemeanor.

As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he/she shall be punished as for a petty misdemeanor.

Source: City Code
Effective Date: 01-01-1979

CHAPTER 8

TRAFFIC REGULATIONS

(SEE CHAPTER 7 FOR DEFINITIONS, SCOPE AND APPLICATION RELATING TO THIS CHAPTER)

SECTION 8.01. MINNESOTA STATUTES, CHAPTERS 168, 169 AND 171 ADOPTED BY REFERENCE.

Except as otherwise provided in this Chapter, or in Chapters 7 and 9 of this Code, the regulatory and procedural provisions of MN Stat., Chapter 168, Chapter 169 (commonly referred to as the Highway Traffic Regulation Act) and Chapter 171, as amended through Laws 2004, are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 164, 3rd Series
Effective Date: 09-30-2005

(Sections 8.02 through 8.09, inclusive, reserved for future expansion.)

SECTION 8.10. TRUCK ROUTE.

It is unlawful for any person to drive a tractor, agricultural implement, truck (other than a pick-up truck of one-half ton capacity or less), truck-trailer, tractor-trailer or truck-tractor, automobile trailer, or automobile to which a trailer is attached, in through traffic, 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.

SECTION 8.11. EXHIBITION DRIVING.

Subd. 1. Prima Facie Evidence.

It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. 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.

Source: Ordinance No. 21, 3rd Series
Effective Date: 06-18-1981

SECTION 8.12. DRIVING THROUGH PRIVATE PROPERTY TO AVOID SIGNAL.

It is unlawful for any person to avoid obedience to any traffic control device by driving upon or through any private property.

Source: City Code
Effective Date: 01-01-1979

(Sections 8.13 through 8.28, inclusive, reserved for future expansion.)

SECTION 8.29. ALL-TERRAIN VEHICLE TRAFFIC CONTROL AND REGULATIONS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. "All-Terrain Vehicles" (ATV's) means a motorized floatation-tired vehicle with at least three, but no more than six low pressure tires, with an engine displacement of less than 800 cubic centimeters and total dry weight of less than 900 pounds. ATV's with a total dry weight of more than 900 pounds are classified as Off-Road Vehicles.

B. "Off-Road Vehicles" (ORV's) means motorized, recreational vehicles capable of cross-country travel on natural terrain, such as four-wheel drive trucks and ATV's that have an engine displacement of more than 800 cubic centimeters or total dry weight of more than 900 pounds.

Subd. 2. Unlawful Acts.

A. It is unlawful for any person to operate an ATV under the following circumstances within the City.

B. Within the right-of-way of any public roads or streets or other City property within the City.

C. On private property of another, without the express permission to do so by the owner or occupant of said property.

D. On public school grounds, parks, playgrounds or other public property or recreation areas without express permission to do so by proper public authority.

E. In a manner as to create loud, unnecessary or unusual noise, so as to disturb or interfere with the peace and quiet of other persons.

F. In a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety of any person or the property of another.

G. Without having said ATV registered, as provided by State Statute.

Subd. 3. Equipment Required.

All ATV's operated within the City shall have the following equipment:

A. Mufflers which are properly attached which reduce the noise of the operation of the vehicle to the minimum noise necessary for operation of the ATV.

B. Adequate brakes as prescribed by State Statute and at least one head light and one tail light.

Subd. 4. Other Regulations.

It is unlawful for the owner or operator to leave or allow an ATV to remain unattended on public roads or streets or other City or public property within the City, or remain unattended while the motor is running or with the key to start the same in the ignition switch.

Subd. 5. Other Uses.

All-Terrain Vehicles (ATV's) may be used for the purpose of snow removal and as construction equipment at work sites provided these vehicles are transported to the work site by truck or trailer. ATV's shall be transported from one work site to another, and shall not be driven or operated between work sites within the City.

Source: Ordinance No. 160, 3rd Series
Effective Date: 02-17-2005

SECTION 8.30. SNOWMOBILE TRAFFIC CONTROL AND REGULATIONS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. The term "snowmobile" means a self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

B. (Repealed by Ordinance No. 159, 3rd Series, adopted 02-08-2005)

C. The term "owner" means a person, other than a lien holder having the property in or title to a snowmobile or ATV entitled to the use or possession thereof.

D. The term "operate" means to ride in or on and control the operation of a snowmobile or ATV. The term "operator" means every person who operates or is in actual physical control of a snowmobile or ATV.

E. The term "deadman throttle" or "safety throttle" means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

F. The term "natural terrain" means 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.

Subd. 2. Scope of Application.

Notwithstanding provisions of this Chapter 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 as to matters set forth herein. All provisions of this Chapter, not relating to matters herein stated, apply as equally to snowmobiles as other vehicles.

Source: City Code
Effective Date: 01-01-1979

Subd. 3. Operation.

Except as otherwise herein permitted, it is unlawful for any person to operate a snowmobile, not licensed as required by State Statute, 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 upon the most right-hand lane of a 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. 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.

Source: Ordinance No. 159, 3rd Series
Effective Date: 02-17-2005

B. On a public sidewalk provided for pedestrian 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 but in no event to exceed fifteen miles per hour.

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. Closer than 100 feet to any dwelling which is usually occupied by one or more persons, except when operated on a continuous line of travel to or from the place where the snowmobile is normally kept or stored, to areas where snowmobiling is authorized.

H. So as to tow any person or thing except through use of a rigid towbar attached to the rear of the snowmobile.

I. At any place while under the influence of alcohol or drugs as defined in M.S.A. 169.121, which is hereby incorporated herein by reference.

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.

Source: City Code
Effective Date: 01-01-1979

Subd. 4. Special Orders.

In addition to the regulations provided in Subdivision 3, it is unlawful to operate a snowmobile on any public place where prohibited by order of the Chief of Police. The Chief of Police shall have the power, by written order, to prohibit such operation whenever in his/her discretion the same would be likely to produce damage to property or endanger the safety or repose of other persons. Such areas shall be appropriately sign-posted before such order shall become effective.

Source: Ordinance No. 159, 3rd Series
Effective Date: 02-17-2005

Subd. 5. Direct Crossings.

A snowmobile may make a direct crossing of a street or highway, except an interstate highway or freeway, provided:

A. The crossing is made at an angle of approximately ninety degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.

B. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way.

C. The 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.

Source: City Code
Effective Date: 01-01-1979

E. If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

Source: Ordinance No. 159, 3rd Series
Effective Date: 02-17-2005

Subd. 6. 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.

Subd. 7. Persons Under Eighteen.

A. It is unlawful for any persons under the age of fourteen 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. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile as permitted under this Section, only if he/she has in his/her immediate possession, a safety certificate issued by the Commissioner, as provided by M.S.A. 84.872.

B. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Subdivision.

Subd. 8. Equipment.

It is unlawful for any person to operate a snowmobile any place within the City unless it is equipped with the following:

A. Standard mufflers which are properly attached and which 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.

B. Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.

C. A safety or so-called "deadman" throttle in operating condition.

Source: City Code
Effective Date: 01-01-1979

D. When operated between the hours of one-half hour after sunset to one-half hour before sunrise or at a time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at

least l00 feet ahead during the hours of darkness and under normal atmospheric conditions. Such head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one 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 sixteen square inches on each side, forward of the handlebars, or steering device of a snowmobile and at the highest practical point on any towed object, as to reflect light at a ninety (90) degree angle.

Subd. 9. Locking Vehicles.

It is unlawful for any person to leave a snowmobile on a public place unless he/she shall lock the ignition, remove the key and take the same with him/her.

Source: Ordinance No. 159, 3rd Series
Effective Date: 02-17-2005

Subd. 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.

Subd. 11. Animals.

It is unlawful to intentionally drive, chase, run over or kill any animal with a snowmobile or ATV.

Source: City Code
Effective Date: 01-01-1979

Subd. 12. Signal From Officer to Stop.

It is unlawful for a snowmobile operator, after having received a visual or audible signal from any law enforcement officer to come to a stop, to (a) operate a snowmobile in willful or wanton disregard of such signal, or (b) interfere with or endanger the law enforcement officer or any other person or vehicle, or (c) increase his/her speed or attempt to flee or elude the officer.

Source: Ordinance No. 159, 3rd Series
Effective Date: 02-17-2005

Subd. 13. Headgear Required.

When operating a snowmobile, it is unlawful for any operator and any passenger to fail to wear protective headgear which complies with standards established by the Commissioner of Public Safety.

Subd. 14. Certain Statutes Adopted.

MN Stat. §§84.81 through 84.90, inclusive, as amended in 1977, together with rules and regulations promulgated thereunder, are hereby adopted by reference, incorporated herein, and made a part hereof, except as otherwise provided herein.

Source: City Code
Effective Date: 01-01-1979

SECTION 8.31. SPECIAL VEHICLE USE.

Subd. 1. Operation Authorized.

Operation of motorized golf carts is hereby authorized on the roadways of all streets, except such as are prohibited by resolution of the Council, and only in strict compliance with this Section.

Subd. 2. Permits.

Permits shall be issued only to persons 18 years of age or older who have a valid Minnesota driver's license. Application for a permit to operate a motorized golf cart on the roadways of streets shall include the name and address of the applicant and such other information as may from time-to-time be required by the Council. All permits shall be granted for a period of one year and may be renewed annually. The annual fee for a permit shall be fixed by resolution of the Council.

Subd. 3. Designation of Roadways.

The Chief of Police shall designate City roadways or portions thereof upon which motorized golf carts shall be permitted to operate. At no time shall a golf cart be driven upon a State highway except at an intersection, and only for the purpose of crossing the State highway at the intersection on a designated roadway. Each golf cart driven upon a designated roadway shall remain at, or as close as possible to, the curb. All golf carts shall use the most direct route to and from the golf course.

Subd. 4. Unlawful Acts.

It is unlawful for any person to operate a motorized golf cart on the roadway of a street unless:

A. The operator has in possession a valid, current and unrevoked permit from the City.

B. The operation is on a roadway which has not been designated as prohibited for such operation, except crossing at an intersection.

C. The operation is from one-half hour after sunrise to one-half hour before sunset.The operation is not during inclement weather, or when visibility is impaired by weather, smoke, fog, or other conditions, or when there is insufficient light to clearly see persons or vehicles thereon at a distance of 500 feet.

D. The motorized golf cart displays a slow moving vehicle emblem, as described by statute, on the rear thereof.

E. The motorized golf cart is equipped with rear view mirrors.

F. The operator has insurance coverage. In the event persons operating a motorized golf cart or four-wheel all-terrain vehicle under this Section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile Assigned Risk Plan.

G. The operator observes all traffic laws, except such as cannot reasonably be applied to motorized golf carts, and except as otherwise specifically provided by statute (presently Section 169.045, Subdivision 7.)

H. Suspension or Revocation of Permit. The Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any provisions of this Section or MN Stat., Chapter 169, or if there is evidence that the permittee cannot safely operate the motorized golf cart on designated roadways.

Source: Ordinance No. 126, 3rd Series
Effective Date: 06-05-1098

SECTION 8.32. SKATEBOARDS, ROLLER SKATES AND BICYCLES.

Subd. 1. Definitions.

A. "Skateboards" - A wheeled, self-propelled device designed to transport a rider in a standing position, which device is not otherwise secured to a rider's foot or shoes.

B. "Roller Skates" - A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe. For purposes of this Section, the term "roller skates" shall include "roller blades".

C. “Bicycle” - Every device propelled solely by human power upon which any person may ride, having two tandem wheels except scooters and similar devices and including any device generally recognized as a bicycle though equipped with two front or rear wheels.

D. "Downtown Area" - The following named streets: That portion of the City that lies between 1st Street SW and 1st Street SE and North of Dayton Avenue and South of Ash Avenue. This includes the rights-of-way within the above described street and avenues, and the City owned parking lot on the corner of Aldrich Avenue SW and 1st Street SW.

Subd. 2. Skateboard, Roller Skates and Bicycle Regulations.

A. It is unlawful for any person to operate, propel or ride a skateboard, roller skates or a bicycle upon any public sidewalk, street or parking lot in the "Downtown Area" of the City.

B. It is unlawful for any person to operate, propel or ride a skateboard, roller skates or a bicycle on or within that portion of any State trunk highway, County State-aid highway or County highway designed for vehicular traffic.

C. It is unlawful for any person to operate, propel or ride a skateboard, roller skates or a bicycle on any private property without the permission of said property owner.

D. It is unlawful for any person to operate, propel or ride a skateboard, roller skates or a bicycle upon any sidewalk, street or parking lot, or other public property, outside of the designated areas within the parks, or private property without the owner’s consent, carelessly or heedlessly in disregard of the rights of others, or in a manner that endangers or is likely to endanger any person or property.

Source: Ordinance No. 164, 3rd Series
Effective Date: 09-30-2005

(Sections 8.33 through 8.98, inclusive, reserved for future expansion.)

SECTION 8.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Misdemeanor.

Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he/she shall be punished as for a misdemeanor; where he/she 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, he/she shall be punished as for a misdemeanor.

Subd. 2. Petty Misdemeanor.

As to any violations not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he/she shall be punished as for a petty misdemeanor.

Subd. 3. Provisions Adopted by Reference.

As to any violation of a provision adopted by reference, he/she shall be punished as specified in such provision, so adopted.

Source: City Code
Effective Date: 01-01-1979

CHAPTER 9

PARKING REGULATIONS

(SEE CHAPTER 7 FOR SCOPE AND APPLICATION RELATING TO THIS CHAPTER)

SECTION 9.01. PRESUMPTION.
As to any vehicle parking in violation of Chapters 7, 8 and 9 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.

Source: City Code
Effective Date: 01-01-1979

SECTION 9.02. 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: (1) on a sidewalk; (2) in front of a public or private driveway; (3) within an intersection; (4) within ten feet of a fire hydrant; (5) on a crosswalk; (6) within twenty feet of a crosswalk at any intersection; (7) in a sign-posted fire lane; (8) within thirty feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway; (9) within fifty feet of the nearest rail of a railroad crossing; (10) within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when properly sign-posted; (11) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; (12) on the roadway side of any vehicle stopped or parked at the edge or curb of a street; (13) upon any bridge or other elevated structure upon a street; (14) at any place where official signs prohibit or restrict stopping, parking or both; (15) in any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; or, (16) on any boulevard which has been curbed.

Source: Ordinance No. 22, 3rd Series
Effective Date: 06-18-1981

SECTION 9.03. UNAUTHORIZED REMOVAL.

It is unlawful for any person to move a vehicle not owned, leased or under the control of such person into any prohibited area or away from a curb such distance as is unlawful.

SECTION 9.04. RECREATIONAL CAMPING VEHICLE PARKING.

Subd. 1. Definition.

The term "recreational camping vehicle" means any of the following:

A. The term "travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "Travel Trailer" by the manufacturer of the trailer.

B. The term "pick-up coach" means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

C. The term "motor home" means a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

D. The term "camping trailer" means a folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

Subd. 2. Unlawful Act.

It is unlawful for any person to leave or park a recreational camping vehicle on or within the limits of any street or right-of-way for a continuous period in excess of twenty-four hours, except where signs are erected designating the place as a campsite or in a mobile home park.

SECTION 9.05. DIRECTION TO PROCEED.

It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.

SECTION 9.06. PARALLEL PARKING.

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

SECTION 9.07. ANGLE PARKING.

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

SECTION 9.08. STREETS WITHOUT CURB.

Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street; and it is unlawful to park in violation of this Section.

Source: City Code
Effective Date: 01-01-1979

(Sections 9.09 through 9.29, inclusive, reserved for future expansion.)

SECTION 9.30. PARKING HOURS.

Subd. 1. Standing Vehicles.

It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of twenty-four hours.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Designated Limited Time Zones.

The Chief of Police may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as limited time zones stated in either hours or minutes, limiting parking, and mark such limitations by appropriate signs in the zone established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in any space so limited when sign-posted.

Source: Ordinance No. 53, 3rd Series
Effective Date: 03-01-1985

Subd. 3. Removing Marks or Signs Placed by Police Officer.

It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time such vehicle has been parked.

Subd. 4. Relocation of Vehicle Less than 300 Feet.

For the purpose of enforcement of this Section, any vehicle moved to a location less than 300 feet from the previous location in any limited time parking zone shall be deemed to have remained stationary.

Source: Ordinance No. 127, 3rd Series
Effective Date: 06-05-1998

SECTION 9.31. EMERGENCY.

Subd. 1. Definition.

For purposes of this Section, the term “emergency” means a condition created on City streets because of the presence of snow, freezing rain, sleet, ice or snow drifts thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or likely to impede the free movement of fire, health, police, emer-

gency or other vehicular traffic when the same have been duly declared by the Public Works Superintendent, or in his/her absence, the Chief of Police.

Subd. 2. Rules and Regulations.

Rules and regulations relating to snow removal shall be in accordance with the uniform policy promulgated by the Public Works Superintendent. Such regulations shall be posted in the office of the City Clerk-Treasurer, and further notice may otherwise be given as the Council may direct.

Subd. 3. Unlawful Acts.

A. During an emergency, it is unlawful to park or leave standing any vehicle upon a snow emergency route designated and duly sign-posted as such.

B. During an emergency, it is unlawful to park or leave standing any vehicle upon a street on which parking has been restricted by the declaration of an emergency.

SECTION 9.32. TRUCK PARKING.

Subd. 1. Public Property.

It is unlawful to park a detached semi-trailer upon any street, City-owned parking lot, or other public property.

Subd. 2. 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.

Subd. 3. Commercial Vehicles Greater than One Ton Capacity.

It is unlawful to park a commercial vehicle of more than one ton capacity upon any street in the business district which has been duly sign-posted prohibiting the same, but parking of such vehicle for a period of not more than thirty minutes shall be permitted in such space for the purpose of necessary access to abutting property for loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

Subd. 4. Diagonal Parking Prohibited.

It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projection beyond the original length of such vehicle, or any passenger bus, diagonally along any street except for a time sufficient to load or unload, and in such case, only parallel parking shall be permitted. Provided,

however, that a truck may stand backed up to the curb if the weight or bulk of the load makes parallel parking impracticable, but then only for a period of time sufficient to load or unload.

Subd. 5. 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 twenty minutes, all of which shall be for the purpose of access to abutting or adjacent property while actively loading or unloading.

SECTION 9.33. IMPOUNDING AND REMOVING VEHICLES.

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. 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 thereof and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from such place of storage or safekeeping.

SECTION 9.34. 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 Clerk-Treasurer where in the judgment of the Council a commercial loading zone is justified, and duly sign-posted.

SECTION 9.35. UNATTENDED VEHICLE.

Subd. 1. Engine Running.

It is unlawful for any person to leave a motor vehicle unattended while the engine is running.

Subd. 2. Key in Ignition.

It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition.

SECTION 9.36. VEHICLE REPAIR ON STREET.

It is unlawful for any person to service, repair, assemble or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs thereon.

SECTION 9.37. 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 thereon or therein, or advertising any merchandise for sale or a forthcoming event.

Source: City Code
Effective Date: 01-01-1979

SECTION 9.38. PHYSICALLY HANDICAPPED PARKING.

Subd. 1. Strict Enforcement.

Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Police officers are authorized to tag vehicles on either private or public property in violation of such statutory priviliges.

Subd. 2. Parking Otherwise Prohibited.

It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing, a motor vehicle (1) in a sign-posted fire lane at any time, or (2) in lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

Source: Ordinance No. 39, 3rd Series
Effective Date: 05-30-1984

SECTION 9.39. COMMERCIAL, INDUSTRIAL OR CONSTRUCTION EQUIPMENT.

It is unlawful for any person to leave or park a commercial, industrial or construction vehicle or equipment on or within the limits of any street right-of-way, City-owned parking lot, other public property or private property for a continuous period in exceed of twenty-four (24) hours within an R-1 or R-2 zoned district within the City.

Source: Ordinance No. 84, 3rd Series
Effective Date: 11-01-1991

(Sections 9.40 through 9.98, inclusive, reserved for future expansion.)

SECTION 9.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Misdemeanor.

Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he/she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he/she shall be punished as for a misdemeanor; where he/she 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, he/she shall be punished as for a misdemeanor.

Subd. 2. Petty Misdemeanor.

As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he/she shall be punished as for a petty misdemeanor.

Source: City Code
Effective Date: 01-01-1979

CHAPTER 10

PUBLIC PROTECTION, CRIMES AND OFFENSES

HEALTH

SECTION 10.01. STORAGE, DEPOSIT AND DISPOSAL OF REFUSE.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. The term "refuse" means and includes all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, tree or lawn clippings, leaves, weeds and other waste products, except human waste or waste resulting from building construction or demolition. Provided, however, that the term "refuse" shall not include lawn clippings or leaves if they are neat, orderly and contained for the purpose of creating organic matter.

B. The term "residential dwelling" means any single building consisting of one through four dwelling units with individual kitchen facilities for each.

C. The term "multiple dwelling" means any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each.

D. The term "commercial establishment" means any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.

Subd. 2. Storage.

A. It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five to thirty gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition; provided, that tree leaves, weeds and grass clippings may be stored in plastic bags and tree limbs must be stored in bundles weighing no more than seventy-five pounds and no longer than four feet.

B. It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

C. It is unlawful for any person to store refuse on commercial establishment for more than forty-eight hours. Such storage shall be in containers as for residential dwelling premises, except that so-called “dumpers” with close-fitting covers may be substituted.

D. It is unlawful to store organic refuse unless it is drained and wrapped.

Subd. 3. Deposit.

It is unlawful for any person to deposit refuse from any source, rubbish, offal, or the body of a dead animal, in any place other than a sanitary landfill.

Subd. 4. Disposal.

The Council may, by resolution, adopt, and from time-to-time amend, adjust and revise such rules, regulations, rates and charges as it deems necessary or proper for the operation and management of the sanitary landfill. It may give notice of any such action as it deems necessary.

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

SECTION 10.02. UNLAWFUL USE AND FURNISHING OF TOBACCO.

Subd. 1. Use.

It is unlawful for any person, under the age of eighteen (18) years, to use tobacco in any form.

Subd. 2. Furnishing.

It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of eighteen (18) years.

(CODIFIER’S NOTE: Tobacco is also covered in Section 6.40 of the City Code.)

SECTION 10.03. TOILET INSTALLATION REQUIRED.

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 100 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. The City shall 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 thirty (30) days after service of such written notice. 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 benefited. 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 ten (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 five years upon written request by the owner of the property.

SECTION 10.04. WATER AND SEWER CONNECTION REQUIRED.

Subd. 1. Purpose.

The City is situated in an area having a water table unusually close to the surface. Recognizing this the Council has an obligation to be particularly concerned with minimizing the hazard of pollution by private sewerage disposal systems and maximizing protection against consumption of unhealthy or polluted water. This Section is adopted in the interest of maintaining and preserving the public health, by limiting private sewerage disposal and consumption of untreated water from private wells.

Source: City Code
Effective Date: 01-01-1979

Subd. 2. Sewer and Water Connection Required.

All premises upon which there is a business building or dwelling or multiple dwelling, and which premises become within 100 feet of City water and sanitary sewer mains, shall be connected thereto no later than one year after construction of such mains is completed.

Source: Ordinance No. 27, 3rd Series
Effective Date: 08-12-1982

Subd. 3. Unlawful Act.

It is unlawful for the owner of any premises to fail to comply with this Section within the time limited.

Subd. 4. Other Remedies.

A. No building permit for construction or improvement of premises covered by this Section shall be issued unless connections with water and sewer mains have previously been made, or, as part of such construction or improvement, connections are to be made with City water and sewer mains.

B. The City may enforce this Section by civil action in a Court of competent jurisdiction.

Source: City Code
Effective Date: 01-01-1979

Subd. 5. Exceptions.

A. All premises on which a business building, such as a cold storage warehouse is located, and where there are no facilities therein using water and sewer system, shall not be required to connect to City water and sanitary sewer mains.

Source: Ordinance No. 27, 3rd Series
Effective Date: 08-12-1982

B. All premises upon which there is a dwelling with an existing well as of the effective date of this Subdivision, and which dwelling is located within 100 feet of an existing City water main, shall not be required to connect to a City water main.

Source: Ordinance No. 43, 3rd Series
Effective Date: 10-03-1984

SECTION 10.05. (Repealed by Ord. No. 23, 3rd Series, adopted 05-27-1981.)

(Sections 10.06 through 10.19, inclusive, reserved for future expansion.)

SAFETY

SECTION 10.20. DANGEROUS WEAPONS AND ARTICLES.

Subd. 1. Acts Prohibited.

It is unlawful for any person to:

A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,

B. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,

C. Manufacture or sell for any lawful purpose any weapon known as a slingshot or sand club; or,

D. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,

E. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,

F. Sell or have in his/her possession any device designed to silence or muffle the discharge of a firearm; or,

G. Permit, as a parent or guardian, any child under fourteen 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,

H. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his/her parent or guardian or of the Police Department.

Source: City Code
Effective Date: 01-01-1979

I. Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck or sharp stud. For the purposes of this Subparagraph, (1) a “throwing star” means a circular metallic device with any number of points projecting from the edge, (2) a “nun chuck” means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod, and (3) a “sharp stud” means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed. Provided, however, that the Council may, upon a showing of special circumstances, issue a written permit for such possession, sale or transfer of nun chucks.

Source: Ordinance No. 60, 3rd Series
Effective Date: 04-02-1986

Subd. 2. Exception.

Nothing in Subdivision 1 of this Section 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.

Subd. 3. 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 B-B gun.

Subd. 4. Exception.

Nothing in Subdivision 3 of this Section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his/her duty, or to a person in the lawful defense of his/her person or family. This Section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

Source: City Code
Effective Date: 01-01-1979

Subd. 5. (Repealed by Ordinance No. 149, 3rd Series, adopted 12-09-2003.)

Subd. 5.1. Restrictions on the Discharge of Fireworks.

A. The use, display, possession, discharge or sale of any fireworks not expressly permitted by MN Stat.§624.20, Subd.1(c) is strictly prohibited.

B. All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by MN Stat. §624.20, Subd.1(c), hereinafter "permitted consumer fireworks", is strictly prohibited in the area on, below, above or within or in close proximity to:

1. Parks, recreational areas, roadways, streets, highways, bicycle lanes, pedestrian paths, sidewalks, rights-of-way, streams, waterways and all other property owned or leased by: The City of Wadena, County of Wadena, State of Minnesota or Federal Government and located in whole or in part within the City limits.

2. Private property within the City limits without expressed consent of the property owner or person in control of the property, or the property owner has conspicuously posted written sign or notice that no fireworks discharge is allowed.

3. Within three hundred (300) feet of any consumer fireworks retail sales facility or storage area that has properly posted a written sign or notice that no fireworks discharge is allowed.

4. Any property, area, structure or material that by its physical condition or the physical conditions in which it is set would constitute a fire or personal safety hazard.

5. All other use, display or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

Source: Ordinance No. 149, 3rd Series
Effective Date: 12-10-2003

Subd. 6. 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.

Subd. 7. Use of Bow and Arrow.

It is unlawful for any person to shoot a bow and arrow except in a 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.

Subd. 8. (Repealed by Ordinance No. 149, 3rd Series, adopted 12-09-2003.)

Source: City Code
Effective Date: 01-01-1979

SECTION 10.21. DOG REGULATION.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. The term “running at large” means off or away from the premises of the owner and not on a leash and under the control of the owner, or a member of his immediate family.

B. The term “leash” means a cord, thong, rope, or chain not exceeding six feet in length.

C. The term “control” means use of a leash, one end of which is securely fastened to a collar or other harness on a dog, and the other end of which is held securely or fastened to a person of sufficient age and discretion, unless otherwise specified, to maintain control.

D. The term “owner” means any person who owns, harbors, feeds, boards, keeps, or otherwise possesses a dog, and who is the head of the household of the resi-

dence, or the owner or manager in charge of the establishment or premises at which a dog remains, or to which it returns.

E. The term “vicious dog” means a dog with a propensity to attack or bite human beings or other animals, which propensity is known or ought reasonably to be known to the owner.

Subd. 2. Impounding and Release.

A. Any dog found in the City running at large or in violation of any other provision of this Section or required to be impounded hereunder, shall be placed in the Dog Pound, and an accurate record of the time of such placement shall be kept on each dog. Every dog so placed in the Pound shall be held for redemption by the owner for a period of not less than five regular business days. A “regular business day” is one during which the Pound is open for business to the public for at least four hours between 8:00 o’clock A.M. and 7:00 o’clock P.M. Impoundment records shall be preserved for a minimum of six months and shall show: (1) the description of the dog by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the dog was seized; (3) the date of seizure; (4) the name and address of the person from whom any dog three months of age or over was received; and, (5) the name and address of the person to whom any dog three months of age or over was transferred. If unclaimed, such dog shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of MN Stat. §35.71. However, if a tag affixed to the dog, or a statement by the dog owner after seizure, specifies that a dog shall not be used for research, the dog shall not be made available to any such institution but may, in the discretion of the establishment, be destroyed after the expiration of the five-day period.

B. Upon the impounding of any dog, the owner shall be notified, or if the owner of the dog is unknown, notice shall be published once through the local news media.

C. Dogs shall be released to their owners, or persons previously in possession of them, upon a sworn statement of ownership and payment of impounding fees as established by the Council by resolution. Provided, however, that if the owner of an impounded dog does not redeem such dog during the five regular business day period, any other person may, upon complying with the provisions of this Section, redeem such dog from the Pound and be the lawful owner thereof.

D. Any impounded dog shall not be released from the Pound to a person until such dog has been vaccinated against rabies; provided, however, that no dog so impounded shall be vaccinated if the owner can present a certificate of current vaccination.

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

Subd. 3. Exception.

Any dog seized under MN Stat. §343.22 or §343.29, shall be held for 10 days. A person claiming an interest in a dog in custody under this Section may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual costs of care and keeping. The security must be posted within 10 days of the seizure inclusive of the date of the seizure.

Subd. 4. Notice of Impounding.

Upon impounding a dog under this Section, notice shall be given the owner or person claiming interest in the dog by delivering or mailing it to a person claiming an interest in the dog or by posting a copy of it at the place where the dog is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

A. A description of the dog seized; the authority and purpose for the seizure; the time, place, and circumstances under which the dog was seized; and the location, address, telephone number, and contact person where the dog is kept;

B. A statement that a person claiming an interest in the dog may post security to prevent disposition of the dog and may request a hearing concerning the seizure or impoundment and that failure to do so within five days of the date of the notice will result in disposition of the dog;

C. A statement that all actual costs of the care, keeping, and disposal of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

D. When a dog has been impounded under MN Stat. §343.22 or §343.29, a form that can be used by a person claiming an interest in the dog for requesting a hearing under this Section.

Subd. 5. Right to Hearing and Release From Dog Pound.

Upon request of a person claiming interest in the dog, pursuant to Subparagraph D of Subd. 4, above, which request must be made within 10 days of the date of seizure, a hearing shall be held within five business days of the request to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under MN Stat., §343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under MN Stat., §343.29, the City may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming interest in the dog who is aggrieved by a decision of a

hearing officer under this Section may seek a Court Order governing the seizure or impoundment within five days of the notice of the order.

A. The judge or hearing officer may authorize the return of the dog, if the judge or hearing officer finds that:

1. The dog is physically fit; and

2. The person claiming an interest in the dog can and will provide the care required by law for the dog.

B. The person claiming an interest in the dog is liable for all actual costs of the care, keeping, and disposal of the dog, except if a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the City and the person claiming an interest in the dog before return of the dog to the person.

Subd. 6. Killing of Dogs.

All City police officers are hereby authorized and empowered to destroy any dog in violation of this Section whenever such dog cannot be safely taken up and impounded. No impounding or destruction of any dog shall exempt the owner or keeper of such dog from the penalties and fees provided by this Section.

Subd. 7. Enforcement.

It is unlawful for any owner or other person to refuse to allow a police officer to examine a dog or the rabies tag on a dog under the control of said owner or other person. Each day that said owner or other person refuses to permit a police officer to examine said dog or rabies tag on a dog shall be a separate offense of this Section.

Subd. 8. Interference With Officers.

It is unlawful for any unauthorized person to break open the Pound or to attempt to do so, or to take or let out any dog therefrom, or to take or attempt to take from any officer any dog taken up by him/her in compliance with this Section, or in any manner to interfere with or hinder such officer in the discharge of his/her duties under this Section.

Subd. 9. Offenses Involving Tags.

It is unlawful to counterfeit or attempt to counterfeit the tags provided for herein, or to take from any dog a tag legally placed upon it by its owners with the intention of placing it upon another dog, or to place such tag upon another dog.

Subd. 10. Rabies Vaccination Required.

Every dog six months of age and older shall be vaccinated against rabies. Young dogs shall be vaccinated within thirty days after they have reached six months of age. Unvaccinated dogs acquired or moved into the City must be vaccinated within thirty days after purchase or arrival, unless under six months of age, as specified above. Every dog shall be revaccinated at not more than 24-month intervals thereafter.

Subd. 11. Duties of Veterinarian.

It is the duty of each veterinarian at time of vaccinating any dog, to complete a certificate of rabies vaccination (in triplicate) which includes the following information:

A. Owner's name and address.

B. Description of dog (breed, sex, markings, age and name).

C. Date of vaccination.

D. Rabies vaccination tag number.

E. Type of rabies vaccine administered.

F. Manufacturer's serial number of vaccine.

Distribution of copies of certificate shall be: the original forwarded to the City Clerk-Treasurer by the owner; first copy to owner; and the second copy retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies for the interval between vaccinations specified in Subdivision 10. A metal or durable plastic tag, serially numbered, shall be securely attached to the collar or harness of the dog. Whenever the dog is out-of-doors, whether on or off the owner's premises, the collar or harness with the vaccination tag shall be worn.

Subd. 12. Vaccination Cost.

The cost of rabies vaccination shall be borne by the owner of the dog.

Subd. 13. Exception of Vaccination Requirement - Transient Dogs.

Subdivisions 10, 11 and 12 of this Section shall not apply to any dog owned by a person temporarily remaining within the City for less than thirty days, or any dog brought into the City for the field trial or show purposes, nor for hunting dogs in the City for less than thirty days. Such dogs shall be kept under strict supervision of the owner. However, it is unlawful to bring any dog into the City which does not comply with the animal health laws and import regulations of the State of Minnesota, which are applicable to dogs.

Subd. 14. Rabies Control.

A. When any owner of a dog has been notified that such dog has, or is suspected to have, bitten or attacked any person, he/she shall immediately place the dog under the care and observation of the City or a licensed veterinarian for a period of not less than ten days except in those cases when a dog has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for said dog, in which case, the City may, if it feels the facilities are adequate and if the owner is a responsible person, quarantine the dog on the owner's premises. In this case the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of a dog that has bitten. The quarantined dog must at all times be available for inspection during the quarantine. At the end of the ten days observation period, the dog shall be examined by the City and, if cleared, may be reclaimed by the owner and the owner must pay the expense incurred incident thereto. Any dog impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have been exposed to rabies, shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis. Any dog that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

B. Any person who shall suspect that a dog in the City is infected with rabies shall report said dog to the Police Department or a veterinarian upon written authorization of a licensed veterinarian.

Subd. 15. Unlawful Acts and Remedies Therefor.

A. It is unlawful for the owner of a dog to permit such dog to run at large in the City. Whenever a dog is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.

B. It is unlawful for the owner of any vicious dog to allow such dog off his/her premises unless it is muzzled, on a leash, and under the control of the owner or a member of his/her immediate family over sixteen years of age. Any vicious dog which is found off the premises of its owner other than as provided herein, may be seized and impounded. Provided, that if the dog cannot be captured, it may be destroyed; provided, further, that if the dog has been seen running at large or bites a person, the owner shall forthwith deliver the dog to the Pound and he/she may be ordered to appear in Court to show cause why such dog should not be destroyed.

Source: Ordinance No. 128, 3rd Series
Effective Date: 06-05-1998

C. It is unlawful for the owner of a dog to suffer or permit it to disturb the peace and quiet of the City, neighborhood or other citizens by howling, crying, barking or making any other loud or unusual noise.

Source: Ordinance No. 142, 3rd Series
Effective Date: 06-14-2000

D. It is unlawful for any person to maltreat, abuse or neglect, in a cruel or inhumane manner, any dog.

E. It is unlawful for any person to harbor or keep any stray dog. Dogs known to be strays shall be immediately reported to the Police Department.

F. It is unlawful for any person, not acting under instructions from the owner or the City, to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any dog, with the intent to injure or destroy such dog, or to willfully or maliciously place any poison or poisoned food where the same is accessible to any such dog.

G. It is unlawful for the owner, caretaker or attendant of any dog to allow it to defecate on public or private property other than his/her own. If such dog does defecate on public or private property other than his/her own it shall not be a violation of this provision if such owner, caretaker or attendant shall immediately and thoroughly clean the fecal material from such property, and properly dispose thereof.

H. It is unlawful for any person to abandon a dog owned by him/her.

I. It is unlawful for any person to give any false statement or information concerning the owner, keeper or attendant of any dog, or concerning any dog brought into the Pound or impounded therein.

Subd. 16. Injured Dogs.

A. When a dog without identification is injured and the owner cannot be found, it is the duty of the Police Department to determine, in consultation with a veterinarian, if the dog for humane reasons and due to the extent of the injury and suffering should be destroyed. If the dog is destroyed, neither the City nor its agent shall be held liable for its humane act. If the owner of such dog is subsequently identified, such owner shall pay all expenses of the City and veterinarian's fees and charges.

B. When a dog with identification is injured, it shall be delivered to a licensed veterinarian and the owner notified. All expenses of the City and veterinarian's fees and charges shall be paid by the owner.

Source: Ordinance No. 128, 3rd Series
Effective Date: 06-05-1998

SECTION 10.22. UNLAWFUL ASSEMBLY; PRESENCE AT UNLAWFUL ASSEMBLY.

Subd. 1. Unlawful Assembly.

It is unlawful for three or more persons to assemble, and each participant shall be guilty of unlawful assembly, if the assembly is (a) with intent to commit any unlawful act by force; or, (b) with intent to carry out any purpose in such manner as will disturb or threaten the public peace; or, (c) without unlawful purpose but the participants to conduct themselves in a disorderly manner as to disturb or threaten the public peace.

Subd. 2. 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.

SECTION 10.23. DISORDERLY CONDUCT.

It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do or permit upon premises owned or controlled by him, the following: (1) engage in brawling or fighting; or, (2) disturb an assembly or meeting, not unlawful in its character; or, (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or, (4) willfully and lewdly expose his/her person or the private parts thereof, or procure another to so expose himself or herself; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or, (5) voluntarily enter the waters of any lake, river or City public swimming pool between the hours of 10:00 o'clock P.M. and 8:00 o'clock A.M. except with specific permission; or, enters such water without being garbed in a bathing suit sufficient to cover his/her person and equal to the standards generally adopted and accepted by the public; or, (6) causes the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or, (7) use a flash or spotlight in a manner so as to annoy or endanger others; or, (8) drinks or displays any intoxicating liquor or non-intoxicating malt liquor in or about any premises where such drinking or display is prohibited by law; or (9) causes defacement, destruction, or otherwise damage to any premises or any property located thereon; or, (10) strews, scatters, litters, throws, disposes of or deposits any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or, (11) enters any motor vehicle of another without the consent of the owner or operator; or, (12) fails or refuses to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his/her official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

SECTION 10.24. FALSELY REPORTING CRIME.

It is unlawful for any person to inform a law office that a crime has been committed, knowing that it is false and intending that the officer shall act in reliance upon it.

SECTION 10.25. 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.

SECTION 10.26. CONCEALING IDENTITY.

It is unlawful for any person to conceal his/her identity in a public place by means of a robe, mask or other disguise, unless incidental to amusement or entertainment.

SECTION 10.27. CURFEW.

Subd. 1. Children Under Sixteen Years.

Except as hereinafter provided, it is unlawful for any minor under the age of sixteen years to loiter, idle, or be in or upon the public streets, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant lots or other unsupervised places, between the hours of 10:00 o'clock P.M. and 5:00 o'clock A.M. on a night preceding a curricular school day, and between the hours of 10:30 o'clock P.M. and 5:00 o'clock A.M. on all other nights or days; provided, that the provisions of this Subdivision shall not apply to any minor when in the company of his/her parent, guardian or other adult person having the care and custody of such minor, or where such minor is upon some necessary business or errand by permission or direction of his/her parent, legal guardian or other adult person having the care and custody of such minor.

Subd. 2. Minor Sixteen Years of Age or Older but Under Eighteen Years.

Except as hereinafter provided, it is unlawful for any minor sixteen years of age or older but under the age of eighteen years to loiter, idle, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant lots or other unsupervised places, between the hours of 10:30 o'clock P.M. and 5:00 o'clock A.M. on a night preceding a curricular school day, and 12:00 o'clock midnight and 5:00 o'clock A.M. on all other nights or days; provided, that the provisions of this Subdivision shall not apply to any minor when in the company of his/her parent, guardian or other adult person having the care and custody of such minor, or where such minor is upon some necessary business or errand by permission or direction of his/her parent, legal guardian or other adult person having the care and custody of such minor.

Subd. 3. Parent, Guardian or Other Adults.

Except as hereinafter provided, it is unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen years to permit such minor to loiter, idle, or be in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings or places of amusement, entertainment or refreshment, vacant lots or other unsupervised places during the time prohibited by this Section; provided, that the provisions of this Subdivision shall not apply when the minor is accompanied by his/her parent, guardian or other adult person having the care and custody of such minor, or when the minor is upon some necessary business or errand by permission or direction of his/her parent, legal guardian or other adult person having the care and custody of such minor.

Subd. 4. Places of Entertainment, Amusement or Refreshment.

Except as hereinafter provided, it is unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment to permit any such minors as are referred to in the foregoing Subdivisions of this Section to remain in such place during the times prohibited by this Section; provided, that the provisions of this Subdivision shall not apply when such minor is accompanied by his/her parents, guardian or other adult person having the care and custody of the minor, or where such minor is upon some necessary business or errand by permission or direction of his/her parent or guardian or other adult person having the care and custody of such minor.

Subd. 5. Exceptions.

The Mayor or Chief of Police, upon the request of the Superintendent of the public or parochial schools of the City, may designate certain nights during the school year as "School Night" at such times as said schools shall be engaged in athletic, musical, dramatic or social activities for the benefit or entertainment of its students. The Mayor or Chief of Police, upon the request of any minister or priest of any church in the City, may designate certain nights during the school year as "Youth Nights" at such times as said churches shall be engaged in athletic, musical, dramatic, social or religious activities for the benefit or entertainment of minors. The provisions of Subdivisions 1, 2 and 3 of this Section shall not apply to any student under the age of eighteen years or to his/her parent, guardian or other adult person having the care and custody of such minor who is lawfully going to, attending or returning from any such school or church function on any designated "School Night" or "Youth Night".

Subd. 6. Violation; Minor Under Eighteen Years.

Any minor under the age of eighteen years who violates the provisions of this Section shall be deemed delinquent as defined in MN Stat. §260.015.

Subd. 7. Petty Misdemeanor; Parent, Legal Guardian or Other Adults.

It is a petty misdemeanor for any parent, legal guardian or other adult person to violate the provisions of Subdivision 3 of this Section.

Subd. 8. Petty Misdemeanor; Persons Operating a Place of Amusement, Entertainment or Refreshment.

It is a petty misdemeanor for any person operating or in charge of any place of amusement, entertainment or refreshment to violate the provisions of Subdivision 4 of this Section.

Source: City Code
Effective Date: 01-01-1979

SECTION 10.28. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.

Subd. 1. Definitions.

As used in this Section, the following definitions shall apply:

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

A. The term “farm animals” means cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chicken, guinea hens, honey bees, and rabbits.

B. The term “animals” includes farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, gerbils, pigeons, hamsters and caged household birds.

Source: Ordinance No. 104, 3rd Series
Effective Date: 03-17-1994

C. The term “wild animals” means all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes mammals, birds, amphibians, reptiles, crustaceans, and mollusks.

Source: Ordinance No. 141, 3rd Series
Effective Date: 06-14-2000

D. The term “taking” means pursuing, shooting, killing, capturing, trapping, snaring, angling, spearing, or netting wild animals, or placing, setting, drawing, or

using a net, trap, or other device to take animals. “Taking” includes attempting to take wild animals, and assisting another person in taking wild animals.

Source: Ordinance No. 108, 3rd Series
Effective Date: 01-26-1995

Subd. 2. Keeping.

It is unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the City zoned to permit agricultural purposes, or, (2) animals kept as part of an exhibition sponsored by a local organization, or, (3) animals used in a parade, or, (4) animals kept in a laboratory for scientific or experimental purposes, or, (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian, or, (6) animals kept in a City-owned zoo.

Subd. 3. Animals in Transit.

It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance, or, (2) farm animals being transported in a portion of the City zoned for agricultural purposes, or, (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 4. Treatment.

It is unlawful for any person to treat an animal in a cruel or inhumane manner.

Subd. 5. Housing.

It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.

Subd. 6. Trespasses.

It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific permission therefor from the owner.

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

Subd. 7. Taking of Wild Animals in the City Limits.

It is unlawful for any person to take wild animals within the City limits and other City property, except these restrictions:

A. Does not apply to taking of fish during open season.

B. Permits to take wild animals will be granted with a permit from the Chief of Police and local Conservation Officer annually.

C. Permits in permit areas will be assigned by a random drawing.

Source: Ordinance No. 110, 3rd Series
Effective Date: 03-02-1995

SECTION 10.29. EXOTIC ANIMAL REGULATION.

Subd. 1. Purpose.

This Section is adopted for the purpose of protecting the health, safety and welfare of the residents of the City.

Subd. 2. Definition.

For the purposes of this Section, the term “exotic animal” means and includes any animal, not of the traditional domesticated species, which is inherently dangerous and presents a potential risk to the public.

Subd. 3. Running at Large Prohibited.

It is unlawful for the owner of any exotic animal to permit such animal to run at large. Any animal shall be deemed to be running at large with the permission of the owner unless it is effectively confined within a motor vehicle, building, or enclosure.

Subd. 4. Permit Required.

It is unlawful for any person to keep, shelter or harbor any exotic animal without a permit therefor from the City.

Subd. 5. Permit Term and Fees.

All permits shall be issued for a term of two (2) years and the fee for such permits shall be fixed and determined by the Council, adopted by resolution and uniformly enforced. Such fee may from time to time be amended by the Council by resolution.

Subd. 6. Conditions of Permit.

No permit for the keeping of exotic animals shall be issued until the applicant has met the following criteria for the keeping and housing of exotic animals:

A. A plan is approved by the Council which establishes the nature and size of the cage or enclosure to house the animal considering the animal's size, weight, strength and relative danger to the public; specifying all protective devices to be

maintained to restrain the animal and discourage tampering by humans and other animals; providing for suitable exercise facilities; and an emergency response plan to be on file with the City.

B. Erection and maintenance of suitable fencing for the protection of adjoining property owners and the general public.

C. Providing suitable sanitation controls so as not to create a public or private nuisance.

D. Proof of insurance for medical expense and liability.

Subd. 7. Inspection.

Prior to the issuance of the permit, the City shall require an inspection be made to determine that the facilities are suitable for the protection of the health, safety and welfare of the public. Such inspection shall be made by a person approved by the City and the cost of such inspection shall be borne by the applicant.

Subd. 8. Suspension or Revocation of Permit.

The Council may, for any violation or other reasonable cause: (1) refuse to grant any renewal application; (2) suspend for a period of sixty (60) days; or (3) revoke any permit issued under this Section. Such action shall be made only upon a finding that the permittee has failed to comply with the provisions of this Section. The Council shall take such immediate action as it deems necessary for the public protection to remedy any potentially dangerous situation. The owner of such animal shall be responsible for any expense incurred as the result of such action. Before revocation of any permit, the Council shall give notice to the permittee and grant such permittee opportunity to be heard. The permittee shall have thirty (30) days following a revocation hearing to correct any violations of this Section found to be the basis for revocation, during which time period the revocation shall be suspended.

Source: Ordinance No. 128, 3rd Series
Effective Date: 06-05-1998

(Sections 10.30 through 10.39, inclusive, reserved for future expansion.)

OTHER OFFENSES

SECTION 10.40. PUBLIC NUISANCE.

Subd. 1. Public Nuisance Defined.

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

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

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

C. Is guilty of any other act or omission declared by law or this Section to be a public nuisance and for which no sentence is specifically provided.

Subd. 2. Public Nuisances Affecting Health.

The following are hereby declared to be nuisances affecting health:

A. Exposed accumulation of decayed or unwholesome food or vegetable matter;

B. All diseased animals running at large;

C. All ponds or pools of stagnant water;

D. Carcasses of fish or animals not disposed of within 24 hours after death;

E. Accumulations of manure, refuse, or other debris;

F. Privy vaults and garbage cans, “dumpers” which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

G. The pollution of any public well or cistern, steam or lake, canal or body of water by sewage, industrial waste, or other substances;

H. Any noxious/poisonous vegetation; poison ivy, poison oak, ragweed, or other noxious/poisonous plants; or any weeds, brush or plants or any accumulations of grass, leaves or tree branches which are a fire hazard or otherwise detrimental to the health or appearance of a neighborhood, located on public or private property,

provided; however, grass or leaves if they are neat, orderly and kept contained for the purpose of creating organic matter.

I. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.

J. All public exposure of persons having a contagious disease;

K. Any offensive trade or business as defined by statute not operating under provisions of the City Code;

L. All other conditions or things which are likely to cause injury to or endanger the health of the public.

Subd. 3. Public Nuisances Affecting Peace and Safety.

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

A. All trees, hedges, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection; in any residential zone on any corner lot, no fence or accessory structure or planting shall rise over two and one-half (2 -1/2) feet in height above the level of the public sidewalk within twenty (20) feet of any corner, so as to interfere with traffic visibility across the corner;

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

C. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their market value, and which are so situated as to endanger the safety of the public;

D. All unnecessary noises and annoying vibrations;

E. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Section or other applicable law;

F. Any “Snowbird”, a vehicle parked within 50 feet of an unplowed snow windrow that has not been plowed to the curb.

G. All dangerous, unguarded machinery, all junked, abandoned or unlicensed automobiles in any public place, or so situated or operated on private property as to attract and endanger the public.

H. The burning of rubbish or other material in home trash burner, fireplace or other type furnace in garage or basement and on any private, public property, parks, public street, alley or sidewalk within the City limits.

I. The casting of paper from billboards on the ground and allowing the same to blow across any public street, alley or sidewalk;

J. Any dirt, paper or filth, the sweepings of any house, store, shop or office, or any ashes, nails, glass, metal or plastic containers, garbage, leaves, grass or tree branches, filthy water, offal, straw, wood, stone, earth, manure or rubbish of any kind thrown, deposited or permitted to be thrown, deposited or allowed to remain on any street, sidewalk, alley, or public ground;

K. The accumulations of any discarded or disused machinery, junked vehicles, automobile bodies or parts, household furnishings or appliances, cut and uncut scrap lumber, pipes, brick, concrete block or other material, junk or debris, on public or private property in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner which may be creating a fire, health, or safety hazard from such accumulation, or otherwise detrimental to the appearance of a neighborhood.

1. For purposes of this Section, a junked vehicle is one which is inoperative because it lacks vital component parts essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, wheels and battery. A junked vehicle shall also include any vehicle which, although not lacking any vital component parts, cannot be operated on public roadways due to such things as defective parts of any type and shall also include a vehicle which is not currently licensed for use on public ways in the State of Minnesota.

2. The storing on private property of an inoperative vehicle, for the purpose of repairing or restoring such vehicle, may be authorized by the Chief of Police for periods of up to 90 days. The owner of said vehicle must procure a permit from the Chief of Police and the permit must be conspicuously displayed on or about the vehicle. No more than four consecutive 90-day permits may be granted by the Chief of Police for any vehicle.

L. Radio aerials or television antennae erected or maintained in a dangerous manner;

M. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk without permission from the City;

N. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by City Code provisions;

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

P. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash, grass, leaf or other materials;

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

R. The depositing of garbage or refuse on a right-of-way or on adjacent private property; other than within twenty-four (24) hours for a scheduled garbage pickup;

S. All interference and disturbance of telephone, radios or television sets caused by electrical appliances and equipment or improper operation of improper electrical connections;

T. All other conditions or things which are likely to cause injury to the person or property of anyone.

U. Any “Jake-Braking” in City limits.

V. Any device, display, goods or merchandise, sign, or offer for sale; that is placed or maintained upon, any electric pole, light pole, street sign, traffic sign, boulevard tree, or upon, over, across any traveled or untraveled portion of any street or other public property without written Council approval.

Subd. 4. Enforcement and Inspection.

The Public Works Director shall provide an annual inspection of properties within the City yearly between the months of April and May to complete a list of public nuisances; this list will then be given to the Police Department for their reviewal of the properties in question.

Subd. 5. Duties of City Officers.

The Police Department shall enforce provisions of this Section relating to nuisances affecting public safety and shall assist the Public Works Director in the enforcement of additional provisions relating to nuisances. Such officers shall have the power to inspect private premises and take all reasonable precaution to prevent the commission and maintenance of public nuisances.

SECTION 10.41. OWNER OR OCCUPANT PERMITTING A PUBLIC NUISANCE.

Subd. 1. Unlawful Acts.

It is unlawful for any person to permit real property under his/her control to be used to maintain a public nuisance, or let the same to another knowing it is to be so used.

Subd. 2. Abatement.

Whenever the officer in charge of enforcement determines that a public nuisance exists on premises in the City, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and a reasonable time limit, not exceeding 30 days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall report that fact therewith to the Council. Thereafter the Council may, after notice to the owner or occupant, provide an opportunity to be heard, or provide for abating the nuisance by the City. The notice shall be served in the same manner as notice by the enforcing officer is served and shall be given at least ten days before the date stated in the notice when the Council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting and the hearing.

Subd. 3. Recovery of Cost.

A. Personal Liability. The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator 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 Administrator.

B. Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under MN Stat. §429.101, against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and col-

lection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

Source: Ordinance No. 131, 3rd Series
Effective Date: 07-24-1998

SECTION 10.42. CONSPIRACY.

Subd. 1. To Cause Arrest or Prosecution.

It is unlawful for any person to conspire with another to cause a third person to be arrested or prosecuted on a criminal charge knowing the charge to be false.

Subd. 2. To Commit a Crime.

It is unlawful for any person to conspire with another to commit a crime.

SECTION 10.43. COERCION.

It is unlawful for any person to orally or in writing make any of the following threats and thereby cause another against his/her will to do any act or forbear doing a lawful act: (1) a threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another; or, (2) a threat to unlawfully inflict damage to the property of the person threatened or another; or, (3) a threat to unlawfully injure a trade, business, profession or calling; or, (4) a threat to expose a secret or deformity, publish a defamatory statement or otherwise to expose any person to disgrace or ridicule; or, (5) a threat to make or cause to be made a criminal charge whether true or false, provided, that a warning of the consequences of a future violation of law given in good faith by a magistrate, peace officer or prosecuting attorney to any person shall not be deemed a threat for the purpose of this Section.

SECTION 10.44. 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 him/her or recommended to him/her by the religion which he/she professes.

SECTION 10.45. DISORDERLY HOUSE OR PLACE OF PUBLIC RESORT.

It is unlawful for any person (1) to keep a disorderly house or place of public resort, whereby the peace, comfort or decency of a neighborhood is habitually disturbed; or (2) being the owner or in control of any premises, intentionally permit them to be so used.

SECTION 10.46. BOMB THREATS OR OBSCENE OR ANNOYING CALLS.

Subd. 1. Bomb Threat.

It is unlawful for any person to make or cause to be made a telephone call to threaten a bombing or threaten that a bomb or other explosive device or devices have been placed in any location.

Subd. 2. Annoying, Threatening or Harassing Phone Calls.

It is unlawful for any person to make a telephone call, whether or not conversation ensues, without disclosing his/her identity and with intent to annoy, abuse, threaten or harass any person at the number called; or to make the telephone of another repeatedly or continuously to ring, with intent to harass any person at the number called; or by means of a telephone to make any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent.

Subd. 3. Control of Telephone Used for Unlawful Purpose.

It is unlawful for any person knowingly to permit any telephone under his/her control to be used for any unlawful purpose described in this Section.

SECTION 10.47. OBSTRUCTING LEGAL PROCESS OR ARREST.

It is unlawful for anyone to intentionally obstruct, hinder or prevent the lawful execution of any legal process, civil or criminal or apprehension of another on a charge or conviction of a criminal offense.

SECTION 10.48. WINDOW PEEPING.

It is unlawful for any person to go upon the private premises of another, and in a surreptitious manner look, gaze, stare or peep into any window, door or other opening in any building located thereon which is occupied by a person or persons as a place of abode with intent to intrude upon the privacy of a member of the household thereof.

Source: City Code
Effective Date: 01-01-1979

SECTION 10.49. LURKING OR LOITERING.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. “Premises” - Any land, lot, parcel, sidewalk, boulevard, street, highway, alley, thoroughfare, park, playground, restaurant, café, church, school, car or parking lot or parking space, drive-in; any building used for business purposes, commercial or industrial purposes, or any other place, washroom or toilet, apartment hallway, or other location whether public or private in the City.

B. “Lurking/Loitering” - The term includes:

1. The obstruction of free and unhampered passage of pedestrians or vehicles on the public streets, sidewalks, and public places within the City;

2. Interfering with any person lawfully on the premises by obstructing passage; or,

3. Refusing to move on when so requested by a peace officer when such peace officer reasonably makes such request to preserve or to promote public peace and order.

Subd. 2. Unlawful Acts.

Lurking, loitering or being concealed in, upon, or near the public streets, highways, roads, alleys, parks, playgrounds, sidewalks or other public grounds, in public buildings, places of amusement, entertainment or refreshment, vacant lots, parking lots and spaces, or other unsupervised places or any property, whether public or private, not his/her own, is prohibited:

A. When such conduct results in the making of any noise, riot, disturbance or improper diversion to the annoyance or disturbance of another;

B. When such conduct tends reasonably to or is likely to arouse alarm, anger, fear or resentment in another;

C. When such conduct is with intent to do any mischief or to commit any crime or unlawful act;

D. When such persons shall collect in groups or crowds in, upon, or near any street, sidewalk or public place in said City so as to interfere with or obstruct public travel or movement or parking;

E. When such conduct results in the defacement or destruction of or causes any damage to any part of the premises or any property located thereon;

F. When such person scatters, litters, throws, or otherwise disposes or deposits any refuse, garbage, or rubbish onto the premises except into receptacles provided for such purpose;

G. When such persons shall use profane, abusive, indecent or threatening language towards any person or persons, including peace officers;

H. When such persons shall conduct singly or in groups at or about a business premise which is closed;

I. When such person or persons shall stand or linger about the doorway of any building in such a manner as to obstruct or partially obstruct the free and uninterrupted ingress or egress to or from such building or in such a manner as to annoy the owner or occupant of such building or the owner or occupant of any adjacent premises.

J. Further, it is unlawful for any adult, parent, or guardian to knowingly or negligently permit their juvenile child to violate this Section. The second violation of this Section by a juvenile shall be prima facie evidence that the adult, parent, or guardian knowingly or negligently permitted the juvenile to violate this Section.

Subd. 3. Responsibility of Parents.

It is unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of 16 years to knowingly permit such minor to loiter or lurk on any premises as described in this Section. This restriction shall not apply to a minor who is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is upon a legitimate business activity or errand directed by his parent, guardian or custodian.

Source: Ordinance No. 117, 3rd Series
Effective Date: 04-03-1998

(Section 10.50 through 10.59, inclusive, reserved for future expansion.)

OTHER PUBLIC PROTECTION

SECTION 10.60. SHADE TREE DISEASE CONTROL AND PREVENTION.

Subd. 1. Policy and Purpose.

The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm 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 provide for the removal of dead or diseased trees, as nuisances.

Subd. 2. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

A. The term “shade tree disease” means Dutch elm disease or oak wilt disease.

B. The term “Tree Inspector” means the Park Superintendent, or such other employee of the City as the Council may designate and who shall thereafter qualify, together with his/her duly designated assistants.

C. The term “nuisance” means (1) any living or standing tree infected to any degree with a shade tree disease; or (2) 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.

Subd. 3. Scope and Adoption by Reference.

MN Stat. §§18.01 through 18.023, inclusive are hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided, that this Section shall supersede such Statutes, Rules and Regulations, only to the extent of inconsistencies.

Subd. 4. Unlawful Act.

It is a petty misdemeanor for any person to keep, maintain or permit upon premises owned by him/her or upon public property where he/she has the duty of tree maintenance, any nuisance as herein defined.

Subd. 5. Inspection and Diagnosis.

It is the power and duty of the Tree Inspector to enter upon public or private property, at any reasonable time, for the purpose of inspecting for, and diagnosing, shade tree disease. In cases of suspected shade tree disease, and in performance of his/her duties, the Tree Inspector may remove such specimens, samples and biopsies as may be necessary or desirable for diagnosis.

Subd. 6. 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. Such abatement procedures shall be carried out in accordance with current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

Subd. 7. Procedure for Removal of Infected Trees and Wood.

A. 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, he/she shall proceed as follows:

1. If the Tree Inspector finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease, he/she shall make a written report of his/her finding to the Council which shall proceed by (a) abating the nuisance as a public improvement under MN Stat., Chapter 429, or (b) abating the nuisance as provided in Subparagraph B of this Subdivision.

2. If the Tree Inspector finds that danger of infection of other trees is imminent, he/she shall notify the owner of the property, or the abutting property, as the case may be, by certified mail that the nuisance will be abated within a specified time, not less than five (5) days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice he/she may abate the nuisance.

3. If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, he/she may proceed to abate the nuisance forthwith. He/She shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.

B. Upon receipt of the Tree Inspector's report required by Subparagraph A, Item 1, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one (1) week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

C. The Tree Inspector shall keep a record of the costs of abatements done under this Subdivision and shall report monthly to the City Clerk-Treasurer all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

D. On or before September l of each year the City Clerk-Treasurer 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 MN Stat. §429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

E. No damage shall be awarded the owner for destruction of any tree, wood or part thereof pursuant to this Section.

Subd. 8. Spraying Trees.

A. Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, he/she may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his/her agents whenever possible.

B. The notice and assessment provisions of Subdivision 7 apply to spraying and treatment operations conducted under this Subdivision.

Subd. 9. Transporting Wood Prohibited.

It is unlawful for any person to transport elm wood, including elm firewood, with bark intact into or through the City, or into or through any designated "disease control area" as defined by MN Stat. §18.023. This prohibition shall not apply to movement of such wood pursuant to an approved wood disposal or utilization program authorized by MN Stat. §18.023, or to transportation of elm wood intended for industrial use not to include firewood, provided such transportation of elm logs for industrial use continues without interruption through the City or "disease control area" to their intended destination lying outside the City and "disease control area".

Subd. 10. Interference Prohibited.

It is a petty misdemeanor for any person to prevent, delay or interfere with the Tree Inspector while he/she is engaged in the performance of duties imposed by this Section.

Subd. 11. 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. He/She shall recommend to the Council the details of a program for the control of the diseases, and perform the duties incident to such a program adopted by the Council.

Subd. 12. 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 the Section of the City Code entitled "Regulation of Grass, Weeds and Trees in Streets".

Subd. 13. 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.

Source: City Code
Effective Date: 01-01-1979

Subd. 14. Stockpiling of Bark-Bearing Elm Wood.

The stockpiling of bark-bearing elm wood shall be permitted during the period from September 15 through April 1 of any given year. Any such wood not utilized by April 1 of any year must then be removed and disposed of as provided by this Section and the regulations incorporated therein.

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

SECTION 10.61. MINNESOTA UNIFORM FIRE CODE.

Subd. 1. Adoption.

The Minnesota Uniform Fire Code, 1981 Edition, is hereby adopted as though set forth verbatim herein. One copy of said Code shall be marked CITY OF WADENA - OFFICIAL COPY and kept on file in the office of the City Clerk-Treasurer and open to inspection and use by the public.

Source: Ordinance No. 40, 3rd Series
Effective Date: 05-30-1984

Subd. 2. Storage of Flammable and Explosives Material.

Present installations for the purpose of storage of flammable liquid, liquefied petroleum gas and explosives and blasting agents may continue in the Agricultural District. Provided, however, that such installation shall not be expanded nor shall new installations for such purpose be permitted without a special permit from the Council. Prior to issuance of any such permit, an application therefor shall be investigated by the Chief of the Fire Department, and a hearing held thereon before the Council.

Source: City Code
Effective Date: 01-01-1979

Subd. 3. Recreational Fires.

A. Recreational fires shall be as regulated by the Uniform Fire Code (Article II - General Safety Precautions, Sec. 1102.4).

B. Recreational fire means a fire set for recreational, cooking, warming or ceremonial purposes producing little detectable smoke, odor or soot beyond the property line. Such recreational fires do not require a permit.

C. All recreational fires will be in a fireplace or device designed and manufactured for such recreational fires or equivalent. Such devices shall raise the combustion area above the ground level and not be a below ground fire pit. Prohibited are recreational fires on ground contained by “tire rims”, non-mortared rocks, brick or concrete blocks. The burning of flammable liquids, refuse, garbage, lawn clippings and leaves is prohibited.

D. “Burning Barrels” are not considered a recreational fire and are prohibited.

E. Firewood used in recreational fires shall not exceed 24" in length and shall be untreated, unfinished wood. Starter Fuels shall be dry, untreated, unpainted wood, kindling, branches, cardboard or charcoal starter. Propane gas torches or other clean gas burning devices causing minimum pollution may be used to start the fire.

F. All recreational fires are limited to a size of three (3) feet high and three (3) feet wide including the combustible materials and flame.

G. The Fire Department or Police Department are authorized to require that recreational fires be immediately discontinued if such fires are determined to be a safety hazard or a public nuisance.

H. All recreational fires shall not be within twenty-five (25) feet of a structure or combustible material. Conditions that could cause a fire to spread must be removed prior to ignition.

I. This distance can be reduced to fifteen (15) feet with an approved appliance. An approved appliance shall be permanent in nature and have a contained fire box, chimney and be similar to an indoor fireplace.

J. Fire extinguishing equipment shall be readily available for use at recreational fires. This includes buckets, shovels, garden hoses or a fire extinguisher with a minimum of a 4-A rating.

K. A person knowledgeable in the use of fire extinguishing equipment shall attend a recreational fire. An attendant shall supervise a recreational fire until such fire is extinguished.

L. Open fires or open burning is prohibited. Open fires or open burning is a fire burning in material which is not contained within a fully enclosed firebox or structure and the products of combustion are emitted directly into open atmosphere without passing through a stack, duct or chimney. NOTE: Open burning for a Government Agency or Public Utility is permissible with written permission of the DNR and the Fire Department.

M. This Section does not apply to charcoal or gas fired grills.

N. The definition of a "fireplace" is a fixed or portable containment device for a fire. The combustion material and flame is raised from the ground and all combustible materials are contained in this structure.

Subd. 4. Large Bonfires.

A. Bonfires are permissible upon obtaining a permit issued by the City Administrator or his/her designee department and signed by the Police Department and Fire Department. The party responsible for the property where the fire is to take place must sign the permit application.

B. Permits must be applied for and obtained at least 48 hours prior to ignition.

C. Permits will be issued to groups and organizations for the purpose of group recreation. The permit must be in the possession of an adult who is attending the fire. The Fire Department or the Police Department must inspect all burn sites and burn piles prior to issuing the permit.

D. Materials to be burned must be untreated or unfinished wood. Other materials such as flammable liquids, refuse, plastic, paper, lawn clippings and leaves are prohibited.

E. The Fire Department and Police Department are authorized to require that bonfires be immediately discontinued if such fires are determined to be a safety hazard or a public nuisance.

F. Fire extinguishing equipment shall be readily available for use at recreational fires and bonfires. This includes buckets, shovels, garden hoses or a fire extinguisher with a minimum of a 4-A rating.

G. The bonfire must be located at least twenty-five (25) feet from any structure or combustibles.

H. Fees for bonfire permits will be set by the Council and may be revised on a periodic basis.

Subd. 5. External Heating Systems.

A. External heating systems using fossil fuels or other bio-mass material as a source of energy, if constructed in sufficient numbers in the City, may create a pollution nuisance affecting the public health and welfare and quality of life of residents of the City.

B. Use of external heating systems located in a shelter or building other than the residence or standing on its own, is prohibited within the City.

Source: Ordinance No. 153, 3rd Series
Effective Date: 03-19-2004

SECTION 10.62. AIR POLLUTION CONTROL.

Subd. 1. Burning Grass, Weeds, Leaves or Rubbish.

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 him/her.

Subd. 2. Air Pollution Control Rules.

The Air Pollution Control Rules, 1976, APC 1 through 31, updated through 1977, promulgated by the Minnesota Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. Three copies of said Rules shall be marked CITY OF WADENA - OFFICIAL COPY and kept on file in the office of the City Clerk-Treasurer and open to inspection and use by the public. It is unlawful to violate a provision of this Section or of the Air Pollution Control Rules hereby adopted by reference.

Source: City Code
Effective Date: 01-01-1979

SECTION 10.63. RULES AND REGULATIONS GOVERNING SUNNYBROOK PARK.

Subd. 1. Application.

That the provisions hereinafter contained shall apply to “Sunnybrook Park” as the same is presently located and situated within the City, and to any area which may hereafter be included within the limits of said park, by act of the Council.

Subd. 2. General Purpose.

That the general purpose of the City in establishing “Sunnybrook Park” is to provide an area to help meet the recreation needs of the community and surrounding rural area;

and to provide overnight camping facilities in a designated area, for the public, including persons traveling through the City. In furthering these broad general purposes, the Council deems it necessary and in the best interests of the public to regulate the use of the premises and such facilities as have been heretofore established and which may be established hereafter.

Subd. 3. Regulations.

That all laws of the State of Minnesota and the City and subsequent amendments thereto, shall apply within the limits of said "Sunnybrook Park" except as the same are inconsistent with the following provisions:

Subd. 4. Trout Fishing.

A. That the season for trout shall be the same as established by MN Stat. §101.41, Subd.2, and amendments thereto; provided, however, that the Council, by resolution and posting notice thereof, may limit the said trout season by changing either the opening or closing date of said trout season, whenever the Council finds such action necessary to guard against undue depletion or extinction of trout. No person shall take trout by any method from Whiskey Creek, within the boundaries of said "Sunnybrook Park" except by persons under the age of sixteen years, and then only at the times, places and in the manner and under the circumstances provided as follows:

Source: Ordinance No. 110
Effective Date: 06-23-1965

1. No person shall take trout except during open season and then only between the hours of 8:00 o'clock A.M. and 5:00 o'clock P.M. The Council shall by resolution determine the season and give notice thereof through the local news media.

2. No person shall take trout or any other species of fish except by angling only and then only from the stream banks of Whiskey Creek. The use of boats or rafts of any nature whatsoever is expressly prohibited.

Source: City Code
Effective Date: 01-01-1979

B. Trout Fishing; Limits.

No person shall take more than three trout in any one day, nor shall any person have more than three trout in his or her possession. No person shall release any trout after caught, nor shall any person give any trout to another person for the pur-

pose of continuing fishing after he or she has caught three trout in any one day or has then and there three trout in possession.

Source: Ordinance No. 110
Effective Date: 06-23-1965

C. Fishing: Other Than Trout.

No person shall fish in “Sunnybrook Park” for any species of fish, by any method, unless said person is under the age of sixteen years or has attained the age of sixty-five years. No person shall fish for any species of fish in “Sunnybrook Park” in any area not open to trout fishing, nor at any time when trout season is closed either by the laws of the State of Minnesota or by resolution of the Council, as hereinbefore provided. No person shall fish for any species of fish who shall have already lawfully caught three trout on the same day.

Source: City Code
Effective Date: 01-01-1979

D. Speed.

No person shall operate a motor vehicle on any driveway or street within said “Sunnybrook Park” at a speed in excess of fifteen miles per hour.

Source: Ordinance No. 110
Effective Date: 06-23-1965

E. Hours Open.

It is unlawful for any person to park, be in or remain in, or leave any vehicle in Sunnybrook Park between the hours of 10:00 P.M. and sunrise the following day unless special permission has been granted by the City Administrator or his/her designee, except authorized overnight campers.

Source: Ordinance No. 128, 3rd Series
Effective Date: 06-05-1998

F. Weapons.

No person shall discharge or use any rifle, pistol, air rifle, pellet gun, bow and arrow or slingshot in said park.

G. Pets.

No person shall take or allow any dog or other domestic animal upon park premises, park waters, or in park buildings unless restricted at all times by suitable leash, or under control of owner or custodian.

H. Bathing.

No person shall bathe in or enter the waters of Whiskey Creek within the said park.

I. Throwing Stones.

No person shall throw or cast any stone or any other missile within the said park.

J. Teasing Animals, Etc.

No person shall tease, annoy, disturb or interfere with any bird or animal within the said park.

K. Waste.

No person shall allow rubbish, trash, or waste to accumulate, but the same shall be removed or placed in receptacles provided therefor.

L. Fires.

No person shall start a fire at any time except in fireplaces or stoves provided for that purpose.

Source: Ordinance No. 110
Effective Date: 06-23-1965

1. The Sunnybrook Park Campground is allowed one “campfire” location. The location is to be permanently designated by campground management and available for use only by campground patrons and guests.

2. A second campfire location may be located in Sunnybrook Park. This is a permanent campfire location and can be reserved as with the Sunnybrook Shelters.

3. All rules pertaining to recreational fires are applicable to these campfires. (Sec. 10.61, Subd. 3).

Source: Ordinance No. 154, 3rd Series
Effective Date: 03-19-2004

M. Picking Flowers, Etc.

No person not an employee of the City shall pick or cut any wild or cultivated flower, or cut, break, or injure any shrub or plant within said park, nor carry within or out of said park any wild flower, tree, shrub, plant or any newly plucked branch or portion thereof, or any soil or material of any kind.

Source: Ordinance No. 110
Effective Date: 06-23-1965

N. Overnight Camping.

No person shall park a camp trailer, tent, or sleep overnight within said park unless said person shall have registered with park attendant and paid the charge for each night, at the rate prescribed by resolution of the Council. That said park shall be open to bona fide overnight camping, notwithstanding closing of park for other purposes, unless the Council, by resolution and posted notice, shall close same.

SECTION 10.64. RULES AND REGULATIONS GOVERNING PARKS GENERALLY.

Subd. 1. Traffic Prohibition.

It is unlawful for any person to drive a self-propelled or motorized vehicle, except an electrically propelled wheelchair, in any park, playground, recreational area or athletic field owned or maintained by the City except upon a street or other public thoroughfare therein; provided, that this Subdivision shall not apply to construction or maintenance equipment operated by, or under a contract with, the City and within the scope of such operation or contract.

Subd. 2. Other Traffic, Rules and Regulations.

The Council may, by resolution, adopt additional restrictions on traffic, together with rules and regulations for the use of public parks and sign-post the same upon such parks, playgrounds, recreational areas or athletic fields as they apply, and it is unlawful for any person to violate the same when so sign-posted.

Source: City Code
Effective Date: 01-01-1979

Subd. 3. Hours.

It is unlawful for any person to park, be in or remain in any park, playground, recreational area or athletic field owned or maintained by the City between the hours of

10:00 P.M. and sunrise the following day unless special permission has been granted by the City Administrator or his/her designee.

Source: Ordinance No. 128, 3rd Series
Effective Date: 06-05-1998

SECTION 10.65. JUNK CARS, HOUSEHOLD FURNISHINGS AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY.

It is unlawful to park or store any unlicensed, unregistered, or inoperable motor vehicle, household furnishings or appliances on public or private property in a Residence District, unless housed within a lawfully erected building in the Residence District. Any violation of this Section is hereby declared to be a nuisance and, upon seven days written notice to the owner, as shown by the records in the office of the County Auditor, of private premises on which such material is found, the City may remove the same and certify the cost of such removal as any other special assessment.

SECTION 10.66. 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 MN Stat. Chapter 169.

SECTION 10.67. PROHIBITED USE AND PARKING OF MOBILE HOMES AND RECREATIONAL CAMPING VEHICLES.

Subd. 1. Definitions.

A. The terms “mobile home” and “recreational camping vehicle” shall mean and include the following definitions.

B. The term “travel trailer” means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified “Travel Trailer” by the manufacturer of the trailer.

C. The term “pickup coach” means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

D. The term “motor home” means a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

E. The term “camping trailer” means a folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

Subd. 2. Unlawful Acts.

A. It is unlawful for any person to park a mobile home or recreational camping vehicle upon public or private property for human habitation except in a licensed manufactured home park.

B. It is unlawful for any person to park or store a mobile home or recreational vehicle in the setback area of any property in a "Residence District" for more than seventy-two hours. For the purpose of this provision "setback" has the meaning given it in the Zoning Chapter of the City Code and refers only to the front yard.

Source: City Code
Effective Date: 01-01-1979

SECTION 10.68. (Repealed by Ordinance No. 70, 3rd Series, adopted 04-08-1987.)

(CODIFIER'S NOTE. This topic now covered in Chapter 5 of the City Code.)

SECTION 10.69. MAINTENANCE OF PRIVATE PROPERTY.

Subd. 1. Owner or Occupant.

It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than eight (8) inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; and to treat or remove insect-infested or diseased trees thereon.

Subd. 2. Non-compliance.

If any such owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, and after notice given by the City Clerk-Treasurer has not within seven (7) days of such notice complied, the City may cause such work to be done and the expenses thus incurred shall be a lien upon such real estate. The City Clerk-Treasurer shall certify to the County Auditor of Wadena County a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

SECTION 10.70. OPEN PITS, BASEMENTS, AND OTHER EXCAVATIONS.

It is unlawful for any person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool or other excavation on said premises open and without protection for the public.

Subd. 1. Excavation Open 72 Hours or Less.

If such excavation is open for seventy-two hours or less, it shall be protected by use of flares or lights at night and a railing or other temporary protection during the day.

Subd. 2. Permanent Excavation.

If it shall be permanently installed, it shall be protected with a chain link fence at least forty-eight inches high, night and day.

Source: City Code
Effective Date: 01-01-1979

SECTION 10.71. BARBED WIRE FENCES.

It is unlawful for any person to erect or maintain a barbed wire fence upon his/her property, which fence abuts upon any street or within ten feet of his/her property line with an abutting property owner, without a showing of need and a permit from the Council.

Source: Ordinance No. 40, 3rd Series
Effective Date: 05-30-1984

SECTION 10.72. RADIO AND TELEVISION INTERFERENCE.

It is unlawful for any person to maintain, use or operate any apparatus or device whether electrical, mechanical or of any other type, so as to cause interference with radio or television reception. This Section shall not apply to electro-medical devices provided that they are equipped so far as reasonably possible with apparatus tending to reduce such interference.

Source: City Code
Effective Date: 01-01-1979

SECTION 10.73. STORAGE OF WOOD.

Subd. 1. Wood Defined.

The term “wood” as used in this Section, means wood kept for use as a heating fuel.

Subd. 2. Unlawful Acts.

A. It is unlawful for the occupant of any premises, or if the premises are vacant and unoccupied, then the owner, to maintain on his/her premises any wood pile or structure in which wood is stored, infested with rats, rodents or vermin. If there is an infestation, it shall be the responsibility of the owner or occupant to eliminate said rats, rodents or vermin.

B. It is unlawful for the owner or occupant of any property to keep or store wood outside of a building for more than thirty days which has not been cut to stove length and stacked in a neat and orderly manner. This Subparagraph B shall be enforced thirty days after publication.

Source: Ordinance No. 23, 3rd Series
Effective Date: 06-18-1981

SECTION 10.74. PROHIBITED NOISES, NOISY GATHERINGS, AND PERMITS.

Subd. 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 person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restriction of the following Subdivisions.

Subd. 2. Horns and Audible Signaling Devices.

It is unlawful for any person to sound any audible signaling device on any vehicle except as a warning of danger.

Subd. 3. Radios, Phonographs and Paging Systems.

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 of sound in a distinct and loudly audible manner as to disturb the peace, quiet and comfort of any person beyond the boundaries of the property on which it is located between the hours of 9:00 o'clock P.M. and 7:00 o'clock A.M. For the purpose of this Subdivision, "boundaries of the property on which it is located" means in the case of a single occupant of real estate, the perimeter thereof, and in the case of multiple occupancy, the compact and contiguous area under the exclusive control of the occupant.

Subd. 4. Noisy Gatherings - Participants and Owners.

It is unlawful for any person or persons to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet or repose of other persons. Any owner or person in lawful possession or control of such private lands who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this Section.

Subd. 5. Gatherings - Permission Required.

It is unlawful for any person or persons to congregate on any private lands of another because of, or participate in, any party or gathering of people in the absence of the owner of said private lands, without first having obtained written permission from said landowner. Such written permission shall at all times be in the possession of one or more persons at the site of such congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use.

Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

Subd. 6. Police Authority.

A violation of Subdivisions 4 or 5 of this Section shall give a police officer the authority to order all persons present, other than persons identifying themselves as the owner or person in lawful possession or control of such land to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this Section.

Subd. 7. Loudspeakers or Amplifiers For Advertising.

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 property for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle, except as may be allowed by permit. A permit for the use or operation of such a loudspeaker, sound amplifier or other device for the production or reproduction of sound on a street or other public property for the purpose of commercial advertising or attracting attention of the public to any commercial establishment between the hours of 7:00 o'clock A.M. to 9:00 o'clock P.M. may be obtained from the City Clerk-Treasurer. Such a permit will be granted only if the City Clerk-Treasurer is satisfied such use will not unreasonably annoy or disturb any person or persons in any adjacent residential areas.

Subd. 8. Schools, Churches, Hospitals or Nursing Homes.

It is unlawful for any person to create any excessive noise on a street or public property adjacent to any school, institution of learning, church, hospital or nursing home when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents or when conspicuous signs indicate the presence of such institution.

Subd. 9. Hourly Restriction on Certain Operations - 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 o'clock A.M. to 10:00 o'clock P.M. on any weekday or between the hours of 9:00 o'clock A.M. to 9:00 o'clock P.M. on any Saturday, Sunday or legal holiday. Snow removal equipment is exempt from this provision.

Subd. 10. Noise Impact Statements.

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

Source: Ordinance No. 40, 3rd Series
Effective Date: 05-30-1984

SECTION 10.75. (Repealed by Ordinance No. 70, 3rd Series, adopted 04-04-1987.)

CODIFIER'S NOTE: This topic now covered in Chapter 5 of the City Code.)

(Sections 10.76 through 10.98, inclusive, reserved for future expansion.)

SECTION 10.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, 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.

Source: City Code
Effective Date: 01-01-1979

CHAPTER 11

LAND USE REGULATION (ZONING)

SECTION 11.01. SCOPE AND INTERPRETATION.

Subd. 1. Scope.

From and after the effective date of this Chapter, the use of all land and every building and the erection or structural alteration of any building or portion of a building in the City shall be in conformity with the provisions of this Chapter. Any structure or use lawfully existing at the passage of this Chapter but not in conformity with the regulations of the appropriate zoning district may be continued subject to the regulations of Section 11.30.

Subd. 2. Interpretation.

The provisions of this Chapter shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, other provision of the City Code or regulation, this Chapter shall apply. Where the provisions of any statute, other provision of the City Code or regulation impose greater restrictions than this Chapter, such restrictions shall apply.

SECTION 11.02. DEFINITIONS.

For the purpose of this Chapter, certain words are defined as follows:

1. Agriculture - The growing of soil crops in the customary manner on open tracts of land; the raising of animals or poultry. The term shall include incidental retail selling by the producer of the products raised on the premises, providing that customer parking space is furnished off of the public right-of-way.

2. Alley - A public or private right-of-way less than 30 feet in width which affords secondary means of access to abutting property.

3. Apartments - A room or suite of rooms designed for, intended for, or used as a residence for one family or individual and equipped with cooking facilities.

4. Apartment Building - Three or more dwelling units grouped in one building.

5. Block - A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage or boundary line of the corporate limits of the City.

6. Boarding House - Any dwelling other than a hotel or motel where meals or lodging and means for compensation are provided for five or more persons pursuant to previous arrangements.

7. Building - Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind; and when separated by bearing walls without openings, each portion of such building so separated shall be deemed a separate building.

8. Building, Accessory - A subordinate building, the use of which is incidental to that of the main building on the same lot.

9. Building Height - The vertical distance from the average of the lowest and the highest point of the portion of the lot covered by the building to the highest point of the roof, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

10. Business - Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

11. Central Business District - Main concentration of uses devoted to the retailing of goods and services for a profit.

12. Commercial - C-1 District would consist of other business locations, such as highway serving uses and that which deal more in convenience goods and services.

13. Dwelling, Single Family - A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Source: Ordinance No. 130
Effective Date: 12-24-1971

14. Trailer House or Mobile Home - A detached dwelling structure used for living purposes that is transportable in one or more sections and is less than 24 feet wide, with or without a permanent foundation.

Source: Ordinance No. 26, 3rd Series
Effective Date: 07-29-1982

15. Dwelling, Two Family - A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

16. Dwelling, Multiple Family - A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

17. Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other room or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

18. Family - Any number of individuals living together on the premises as a single non-profit housekeeping unit (except for necessary servants) as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

19. Floor Area - The sum of the gross horizontal areas of the several floors of a building, measured from the exterior walls, including basements and attached accessory buildings.

20. Garage, Private - An accessory building for storage of self-propelled vehicles and tools and equipment maintained as incidental to a conforming use of the premises.

21. Garage, Public - Any premises except those defined as a private garage used for storage or care of self-propelled vehicles and/or where any such vehicles are equipped for operating, repair, or are kept for remuneration, hire, or sale.

22. Home Occupation - Any use customarily conducted entirely within a dwelling and carried on by members of a family residing therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Clinics, hospitals, barber shops, mortuaries, beauty parlors, motor vehicle repairing for hire, welding, animal hospitals and the maintenance of animals, except as provided in Section 11.04, shall not be deemed to be home occupations.

23. Industrial, Light - “I-1” District; all uses which include the compounding, processing, packaging, treatment or assembly of products and materials provided such use will not generate offensive odors, glare, smoke, dust, noise, vibrations, or other objectionable influences that extend beyond the lot on which the use is located.

24. Industrial, Heavy - “I-2” District; is all manufacture, compounding, processing, packaging, treatment, or assembly of products and materials which due to their size and nature, would not conform in the “I-1” District.

25. Hotel - Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in individual dwelling units.

26. Junk Yard - Land or buildings where waste, discarded, salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including but not limited to scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other machinery.

27. Loading Area - Any area where trucks are parked, maneuvered, or loaded or unloaded of materials or equipment.

28. Lot - One unit of a recorded plat or subdivision, which unit has frontage on a public street and is occupied, or to be occupied, by a building and its accessory buildings, and including as a minimum, such open spaces as are required under this Chapter.

29. Lot Area - The land area within the lot lines.

30. Lot Corner - A lot situated at the intersection of two or more streets.

31. Lot Coverage - The total allowable amount of lot area, expressed as a percentage, which may be covered by a principal use and its accessory structures.

32. Lot Depth - The average distance between the front and rear lot line (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width).

33. Lot, Double Frontage - An interior lot having frontage on two streets.

34. Lot, Interior - A lot other than a corner lot.

35. Lot Width - The horizontal straight line distance between the side lot lines at the setback line.

36. Non-Conforming Use - A use lawfully in existence on the effective date of this Chapter and not conforming to the regulations for the district in which it is situated, except that such a use is not non-conforming if it would be authorized under a special use permit where located.

37. Premises - A lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this Chapter.

38. Setback - The shortest horizontal distance between the front lot line and the foundation wall of a building or the allowable building line as defined by the front yard regulations of this Chapter.

39. Sign - A name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution or business.

Source: Ordinance No. 130
Effective Date: 12-24-1971

40. Sign, Advertising - (Repealed by Ordinance No. 147, 3rd Series, adopted 12-10-2002.

40.1. Sign, Billboard, Off-Premise - A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

Source: Ordinance No. 147, 3rd Series
Effective Date: 12-20-2002

41. Sign, Business - A sign which directs attention to a business or profession of a commodity, service, or entertainment sold or offered upon the premises where such a sign is located.

42. Sign, Flashing - Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

43. Sign, Illuminated - Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

44. Sign, Nameplate - Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

45. Sign, Rotating - A sign which revolves or rotates on its axis by mechanical means.

46. Sign, Surface Area of - The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

47. Story - That portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

48. Story, Half - A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

49. Street Line - The right-of-way line of a street.

50. Structure - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

51. Structural Alteration - Any change or addition to the supporting members of a building such as bearing walls, columns, beams or girders.

52. Subdivision - A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than two and one-half (2.5) acres in area and one hundred fifty (150) feet in width, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term includes resubdivision, and, where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided.

53. Use - The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

54. Use, Accessory - A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

55. Variance - A modification or variation of the provisions of this Chapter, as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

56. Yard - Any space in the same lot with a building open and unobstructed from the ground to the sky, except for fences five (5) feet or less in height, and trees and shrubs.

57. Yard, Front -A yard extending across the front of the lot between the side yard lines and lying between the front street right-of-way of the road or highway and the nearest line of the building.

58. Yard, Rear - An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.

59. Yard, Side - An open, unoccupied space on the lot with a building between the building and the side line of the lot.

SECTION 11.03. ZONING DISTRICTS.

Subd. 1. Establishment of Districts.

For the purpose of this Chapter the City is divided into the following districts:

A. R-1 One to Four Family Residence District.

B. R-2 Multiple Family Residence District.

C. C-B Central Business District.

D. C-1 Commercial.

E. I-1 Light Industrial District.

F. I-2 Heavy Industrial District.

G. F Flood Plain District.

Source: Ordinance No. 130
Effective Date: 12-24-1971

H. PID Planned Industrial District.

Source: Ordinance No. 6, 3rd Series
Effective Date: 01-17-1980

Subd. 2. Zoning Map.

The boundaries of the districts established by this Chapter are delineated on the Zoning Map; said Map and all notations, references and date shown thereon are hereby adopted and made part of this Chapter and will be on permanent file, and for public inspection, in the office of the City Clerk-Treasurer. It shall be the responsibility of the Zoning Administrator and staff to maintain said Map, and amendments thereto shall be recorded thereon within thirty days after official publication of amendments.

Subd. 3. District Boundaries.

The boundaries between districts are, unless otherwise indicated, either the center lines of streets, alleys, or railroad rights-of-way, or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the Zoning Map between a street and a district boundary line, they indicate the district boundary line runs parallel

to the street at a distance therefrom equivalent to the number of feet stated unless otherwise indicated.

SECTION 11.04. "R-1" ONE TO FOUR FAMILY RESIDENCE DISTRICT.

Subd. 1. Purpose.

The R-1 District is intended for low density residential development in those areas where such development fits the Land Use Plan and policies, and where municipal utilities are available at reasonable costs.

Subd. 2. Permitted Uses.

Within an R-1 District, unless otherwise provided by this Chapter, no uses are permitted except the following:

A. One to four family dwellings.

B. Parks and recreational areas owned or operated by governmental agencies.

C. Public elementary or high schools, or private schools with an equivalent curriculum.

D. Churches, parish houses, convents, children's nurseries and schools, provided that no building shall be located within 50 feet of any abutting lot in any residential district.

E. Grain or vegetable farming or gardening on unplatted land assessed as agricultural land but not involving a sales structure.

F. Home occupations and offices of professional persons when such use does not exceed one-third (1/3) of the main floor space of a dwelling, is conducted only in principal dwelling, and does not employ more than one person not residing on the premises.

G. Public golf courses, except clubhouses, public swimming pools, private recreational clubs, tennis courts except those operated for commercial purposes.

H. Accessory buildings and accessory uses (also to apply to principal structure).

1. Private garage or carport, boathouse, one of each designation.

2. Private swimming pools when completely enclosed within a chainlike or similar fence five or more feet high.

3. Boarding or rental of rooms shall be subject to providing off-street parking for all motor vehicles of tenants by landlord.

4. Maintenance of dogs and cats or other household pets, subject to licensing requirements, health regulations and other applicable provisions of the City Code.

5. Off-street parking as regulated by Section 11.20, Subdivision 12, General Regulations.

6. Parking of one commercial motor vehicle of not over 26 foot length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent.

7. Signs as regulated in Section 11.20, Subdivision 11, General Regulations.

Subd. 3. Uses by Conditional Use Permit Within an R-1 District.

Buildings or land may be used for the following if granted a Conditional Use Permit as provided in Section 11.40.

A. Municipal administration buildings, police and fire stations, libraries, museums, art galleries, post offices, and other municipal service buildings except those customarily considered industrial in use, providing that no building shall be located within 50 feet of any other lot in a residential district.

B. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures.

C. Golf clubhouse, commercial country club, commercial swimming pool, private swimming pool service more than one family, provided that no principal structure shall be located within 50 feet of any other lot in a residential district.

D. Apartment buildings and multiple dwelling units housing four to eight families with appropriate off-street parking facilities.

E. Boarding or rental of rooms for three to eight persons on a premise.

F. Mobile home park developments, subject to the regulations as established in Section 11.20, Subdivision 13, Minimum Mobile Home Park Requirements.

Source: Ordinance No. 130
Effective Date: 12-24-1971

G. Barber shops and beauty salons.

1. Property owners within 150 feet of the proposed barber shop/beauty salon will be notified in writing by the City that a Conditional Use Permit has been applied for.

Source: Ordinance No. 64, 3rd Series
Effective Date: 10-15-1986

Subd. 4. Height, Yard and Lot Coverage Regulations.

A. Height Regulations. No structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet whichever is less in height, except that church spires, belfries, domes which do not contain usable space, chimneys and similar structures not intended for human occupancy, may be of any height which does not conflict with airport requirements.

B. Front Yard Regulations.

1. There shall be a front yard having a depth of not less than twenty-five (25) feet, except that in a block where two or more residences have been erected facing the same street, the setback for remaining lots in that block fronting on the same street shall be determined by the average setback of existing buildings.

2. There shall be a front yard on each street side of each corner lot except that for corner lots of record at the date of this Chapter, the front yard on the side street may be reduced to a depth of not less than fifteen (15) feet.

3. The yard shall be landscaped and no off-street parking or other accessory uses shall be permitted except as would be characteristic and in harmony with the purposes of an R-1 District.

C. Side Yard Regulations.

Each lot shall have two (2) side yards, each such yard having a width of not less than ten (10) feet.

D. Rear Yard Regulations.

Each lot shall have an unoccupied rear yard having a depth of not less than twenty-five (25) percent of the lot depth, except that accessory buildings and uses as stipulated in Subdivision 2, Subparagraph H, Items 1 and 2 of this Section shall be allowed.

E. General yard regulations shall be as set forth in Section 11.20, Subdivision 5, Yard Regulations.

F. Lot Size Regulations.

1. Every lot on which a one or two unit dwelling is erected shall contain an area of not less than 9,000 square feet. For lots on which three to eight multiple family dwelling units are erected, 2,000 additional square feet shall be provided for each dwelling unit in excess of two.

2. Every lot on which a one or two family dwelling is erected shall not be less than seventy-five (75) feet in width, nor less than 120 feet in depth. Lots fronting on curvilinear streets shall have a minimum frontage of 50 feet and a 75 foot width at the building line.

3. No residential lot not served by public sewer and public water supply shall be less than 22,000 square feet in area, provided that a lot served by public water supply but not public sewer may have a minimum area of 11,000 square feet.

4. The lot area, width and depth regulations of this Section shall not apply to lots platted prior to the adoption of this Chapter. However, such lots shall not be altered in any way which would further reduce their dimensions below the minimum requirements of this Section, and no lot in conformance with the provisions of this Section shall be reduced or resubdivided to produce a lot not in full conformance with this Section.

Subd. 5. General Regulations.

Additional regulations applicable to the R-1 District are set forth in Section 11.20 of this Chapter.

SECTION 11.05. "R-2" MULTIPLE FAMILY RESIDENCE DISTRICT.

Subd. 1. Purpose.

The R-2 District is intended for apartments, row houses, townhouses, dormitories, and other buildings of three or more dwelling units in those areas where such development fits the Land Use Plan, where properly related to other land uses and thoroughfares, and where adequate municipal utilities are available. A secondary characteristic of this District is to provide areas suitable for administrative buildings and related office uses where there is limited contact with the public, no manufacture or exterior display, and where merchandising is limited to essential land convenience types of goods serving neighborhood needs.

Subd. 2. Permitted Uses.

Within an R-2 District, unless otherwise provided by this Chapter, no building or land shall be used except for the following:

A. Any use permitted in Section 11.04, Subdivision 2, as regulated therein.

B. Multiple dwellings, apartment buildings, townhouses, and group or row houses.

C. Boarding or lodging houses.

D. Hospitals, convalescent and nursing homes, elderly housing projects.

E. Institutions of a religious, educational, charitable, or philanthropic nature.

F. Private clubs or lodges, except those whose chief activity is a service customarily carried on as a business for profit.

G. Accessory storage garages or other accessory uses or buildings, customarily incident to the uses permitted in this Section.

H. Signs as regulated in Section 11.20, General Regulations.

I. Off-street parking and loading as regulated by Section 11.20, General Regulations.

Subd. 3. Uses by Conditional Use Permit.

Within an R-2 District, buildings or land may be used for one or more of the following uses if granted a Conditional Use Permit as provided in Section 11.40.

A. Any use permitted in Section 11.04, Subdivision 3, R-1 Residence District.

B. Mobile home park developments only, subject to the special conditions and requirements set forth in Section 11.20, Subdivision 13, Minimum Mobile Home Park Requirements.

C. Medical and dental offices and clinics.

D. Offices for administrative, executive, professional, research or similar organization and laboratories having only limited contact with the general public, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the permissible use.

E. Neighborhood grocery delicatessen, bakery or drug store provided that floor space for the principal use shall be limited to 1,400 square feet, and that no more than four (4) employees shall be required to operate the use at any given time.

F. Laundry and dry cleaning collection and clothes storage centers, tailor shops, hobby shops, small home appliance repair and hardware stores, specialty shops, provided that floor space for the principal use shall be limited to 2,400 square feet and that no more than four (4) employees shall be required to operate the use at any given time.

G. Barber shops and beauty salons.

Subd. 4. Height, Yard and Lot Coverage Regulations.

A. Height Regulations. Structures shall not exceed two and one-half (2.5) stories or thirty-five (35) feet in height, whichever is less, except that church spires, belfries, domes which do not contain usable space, water towers, chimneys or smokestacks, cooling towers, and similar structures not designed for human occupancy, may be erected with no height limitations except airport requirements.

B. Front Yard Regulations.

1. There shall be a front yard having a depth of not less than twenty-five (25) feet, except that for any building exceeding three (3) stories in height, there shall be an additional front yard setback of one (1) foot for every one (1) foot that the building exceeds the height of thirty (30) feet.

2. There shall be a front yard on each street side of a corner lot.

3. On double frontage lots the required front yard shall be provided on both streets,

C. Side Yard Regulations.

1. For one and two family dwellings and their accessory buildings the side yard regulations of Section 11.04, Subdivision 4, Subparagraph C applies.

2. For other buildings not exceeding two (2) stories in height, there shall be two (2) side yards, each such yard having a width of not less than ten (10) feet.

3. For buildings exceeding two (2) stories in height, there shall be two (2) side yards, each yard having a width of fifteen (15) feet plus one (1) foot for each one (1) foot of building height over thirty (30) feet.

D. Rear Yard Regulations. There shall be a rear yard as required in Section 11.04, Subdivision 5, Yard Regulations.

E. General yard regulations shall be as set down in Section 11.20, Subdivision 5, Yard Regulations.

F. Lot Size Regulations.

1. The minimum total lot area for a multiple dwelling structure shall not be less than 11,000 square feet plus 2,000 square feet for each unit in excess of two.

2. A lot for a multiple dwelling structure shall have a width of not less than eighty-five (85) feet and a depth of not less than one hundred twenty-five (125) feet.

3. Not more than thirty-five (35) percent of a lot or plot shall be occupied by buildings.

Subd. 5. General Regulations.

Additional regulations applicable to the R-2 District are set forth in Section 11.20 of this Chapter.

SECTION 11.06. "CB" CENTRAL BUSINESS DISTRICT.

Subd. 1. Purpose.

The "CB" District is intended for retail stores and offices which are mutually compatible and can benefit from and contribute to a compact shopping area serving the City and surrounding area.

Subd. 2. Permitted Uses.

Within a "CB" District, unless otherwise provided by this Chapter, no building or land shall be used except for the following:

1. Antique shops.

2. Apparel shops.

3. Appliance stores.

4. Art and school supply.

5. Art galleries.

6. Art studios.

7. Auction room.

8. Auto accessory store.

9. Bakeries, provided the room or rooms containing the preparation and baking process shall not have a gross floor area in excess of 2,400 square feet.

10. Banks and other saving institutions.

11. Barber parlors.

12. Beauty parlors.

13. Beverage stores.

14. Bicycle sales, rental and repairs.

15. Book and stationery stores.

16. Camera and photo stores.

17. Candy and ice cream stores.

18. Carpet and rug stores.

19. Catering establishments.

20. Clothes pressing and tailoring shops.

21. Clothing stores.

22. Coin and philatelic stores.

23. Decorating studios.

24. Delicatessen.

25. Department stores.

26. Drug stores.

27. Dry cleaning and laundry receiving and pick-up stations, excluding laundering and dry cleaning processing.

28. Dry goods or notions stores.

29. Electrical appliance sales and service.

30. Employment agencies.

31. Fabric shops.

32. Florist shops.

33. Financial institutions.

34. Food, grocery, meat, fish, bakery and delicatessen stores.

35. Furniture stores.

36. Furrier shops.

37. Gift shops.

38. Grocery, fruit, vegetable or meat stores.

39. Hardware stores.

40. Hobby stores.

41. Hotel.

42. Jewelry stores.

43. Leather goods and luggage shops.

44. Library.

45. Liquor stores or taverns.

46. Loan office and finance company.

47. Locksmith shops.

48. Medical and dental offices.

49. Mail order stores.

50. Millinery shops.

51. Music stores.

52. Newsstand.

53. Offices, professional.

54. Office supply stores.

55. Optical stores.

56. Orthopedic and medical appliance stores.

57. Paint and wallpaper stores.

58. Parking and garages other than those accessory to a principal use for the parking and storage of private passenger automobiles only.

59. Personal apparel stores.

60. Pet shops.

61. Phonograph, record and sheet music stores.

62. Photography studios.

63. Physical culture and health services, reducing salons and masseurs.

64. Picture framing and picture stores.

65. Pipe and tobacco shops.

66. Post offices.

67. Plumbing sales stores.

68. Public utility service stores.

69. Radio and television sales and repair stores.

70. Record shops.

71. Rental agencies for the rental of clothing, appliances, automobiles, and household fixtures, furnishing and accessories.

72. Restaurant, excluding “drive-ins”.

73. Sewing machine sales and service shops.

74. Shoe and hat sales and repair shops.

75. Stationery shops.

76. Stock and brokerage firms.

77. Taxi stand.

78. Telephone booth.

79. Theater, excluding drive-in.

80. Ticket agencies.

81. Tea, spice and condiment specialty shops.

82. Toy stores.

83. Travel bureaus and transportation ticket offices.

84. Variety, gift, notion and soft goods stores.

85. Vending machines which are coin or card operated.

86. Accessory uses as follows:

a. Any accessory uses, except signs, customarily incident to the above permitted uses.

b. Signs as regulated in Section 11.20, Subdivision 11, Sign Regulations.

Source: Ordinance No. 130
Effective Date: 12-24-1971

87. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve livability of the unit provided the number of dwelling units in the building are not increased.

Subd. 3. Uses by Conditional Use Permit.

Buildings or land may be used for the following, if granted a Conditional Use Permit as provided in Section 11.40.

A. Any business activity of the same general character as those listed in Subdivision 2 of this Section.

B. Multiple dwellings, but only if a part of a planned concept in accordance with the Comprehensive Plan.

C. Schools, music, dance, business and vocational.

Subd. 4. Height, Yard and Lot Coverage Regulations.

A. Height Regulations. The height regulations of the "CB" District shall be those of Section 11.05, Subdivision 4, Subparagraph A, R-2 Multiple Family Residence District.

B. Yard Regulation and Lot Coverage Regulations. In the "CB" District there shall be no specific yard requirements or lot coverage requirements except as necessary to provide off-street parking and loading where applicable as regulated in Section 11.20, Subdivision 12, General Regulations.

Subd. 5. Additional Regulations.

A. Lighting (glare) shall be directed away from the public right-of-way and residential districts.

B. Any awning, canopy or marquee suspended from a building may extend over the public right-of-way ten (10) feet but not to within two (2) feet of the curb line. Such structures shall be of a height not less than eight (8) feet from the sidewalk or ground grade line, and the owner of such structure shall be responsible for its structural safety.

Subd. 6. General Regulations.

Additional regulations applicable to the "CB" District are set forth in Section 11.20 of this Chapter.

SECTION 11.07. "C-1" COMMERCIAL.

Subd. 1. Purpose.

The "C-1" District is intended to provide suitable locations for commercial retail and wholesaling, administrative, servicing, and related activities dealing more in convenience goods and services.

Subd. 2. Permitted Uses.

Within any "C-1" District no structure or land shall be used except for one (1) or more of the following uses:

1. Those uses as first permitted, and as regulated in Section 11.06 (“CB” District), shall be a permitted use.

2. Animal hospitals, kennels and training runs.

3. Armories, convention halls or exhibition halls, including fairgrounds exhibition areas.

4. Automobile display enclosed showrooms and sales areas and automotive repairs.

5. Bakeries.

6. Bowling alleys, billiard or pool halls.

7. Building materials sales and storage establishments.

8. Bus stations with service and/or garage facilities.

9. Cabinet, carpenter, upholstering or furniture repair shops.

10. Dry cleaning, dyeing and laundry establishments.

11. Electrical contractors and equipment repair and services.

12. Farm implement dealer’s sales and display.

13. Frozen food lockers for family or commercial storage purposes.

14. Engraving, printing, publishing, cartographic and bookbinding establishments.

15. Grocery, fruit, vegetable and meat retail establishments.

16. Greenhouses, nurseries, and garden supply stores.

17. Laboratories, medical, dental and optical.

18. Lumber sales and yards.

19. Marine and boat sales display and servicing establishments.

20. Medical and dental clinics.

21. Miniature golf courses, par three golf courses or archery or golf driving ranges operated for commercial purposes.

22. Monuments, processing and sales.

23. Mortuaries, vault and casket establishments.

24. Motels, hotels and auto courts.

25. Municipal and government buildings and structures.

26. Newspaper printing and distribution agencies.

27. Public utility structures.

28. Plumbing, heating and air conditioning shops, service and showrooms.

29. Radio and television service and repair shops.

30. General retail and wholesale sales establishments.

31. Restaurants (excluding drive-in type).

32. Office and home furniture manufacture and warehousing.

33. Theaters (enclosed structures only).

34. Accessory uses, except signs, customarily incident to the uses permitted in Subdivisions 2 and 3 of this Section.

35. Signs as regulated in Section 11.20, Subdivision 11, Sign Regulations.

36. Off-street parking and loading as regulated by Section 11.20, Subdivision 12, General Regulations.

Source: Ordinance No. 130
Effective Date: 12-24-1971

37. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve livability of the unit provided the number of dwelling units in the building are not increased.

Source: Ordinance No. 171
Effective Date: 05-17-1978

38. A residential dwelling currently existing on a lot or parcel of land in the C-1 District may be replaced by a newly constructed residential dwelling provided the number of dwelling units in the building are not increased.

Source: Ordinance No. 73, 3rd Series
Effective Date: 11-20-1987

Subd. 3. Uses by Conditional Use Permit.

Within a "C-1" Commercial District, buildings or land may be used for one (1) or more of the following uses if granted a Conditional Use Permit as provided in Section 11.40.

A. Any business activity of the same general character as those listed in Subdivision 2 of this Section.

B. Multiple dwelling units and complexes if part of a planned concept in accord with the approved Comprehensive Plan.

C. New or used automobile sales or storage lots, new or used implement sales or storage lots, automobile laundries or car washes, automobile service stations or repair shops provided:

1. The parking lot shall be surfaced with a dust-free material and plans for the arrangement of entrances, exits, screening of exterior storage lots, and parking stalls shall accompany the request for a special use permit.

2. Artificial lighting and glare shall be directed away from any public right-of-way and any residential district.

3. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.

D. Drive-in restaurants, drive-in theaters, or similar uses that provide goods and services to patrons in automobiles, provided:

1. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.

2. The parking area shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, and parking stalls shall accompany the request for a Conditional Use Permit.

3. Artificial lighting and glare shall be directed away from any public right-of-way and any residential district.

E. Mobile home park developments, subject to the regulations as established in Section 11.20, Subdivision 13, Minimum Mobile Home Park Requirements.

Subd. 4. Height, Yard and Lot Coverage Regulations.

A. Height Regulations. No structure shall exceed four (4) stories or forty-five (45) feet whichever is less in height, except that cooling towers, elevator penthouses, domes which do not contain usable space, water towers, and smokestacks or other similar structures not intended for human occupancy may be of any height which does not conflict with airport requirements.

B. Yard Regulation and Lot Coverage Regulations. In the "C-1" District there shall be no specific yard requirements or lot coverage requirements except as necessary to provide off-street parking and loading where applicable as regulated in Section 11.20, Subdivision 12, General Regulations.

Subd. 5. Performance Standards.

In order to insure compliance with the performance standards set forth below, the Council may require the owner or operator of any permitted use to have made such investigations or tests as may be required to show adherence to the performance standards. Such investigation or tests as are required shall be carried out by an independent testing organization selected by the City. Such investigations or testing shall be shared equally by the owner or operator and the City, unless the investigation or tests disclose non-compliance with the performance standards, in which situation the entire cost shall be paid by the owner or operator.

A. Noise.

At any property line the sound pressure level of noise radiated from an industrial operation shall not exceed the values given in Table 1 herein. The sound pressure level shall be measured with a Sound Level Meter and an associated Octave Band Analyzer, both of which are manufactured to specifications published by the American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24, 10-1953. American Standards Association, Inc., New York, New York. Measurements shall be made using the flat network of the sound level meter.

Table 1

Frequency Band Cycles Per Second		Maximum Permitted Sound Level (Decibels)
20 - 75		72
75 - 150		67
150 - 300		59

Table 1

300 - 600		52
600 - 1200		46
1200 - 2400		40
2400 - 4800		34
Over 4800		32

B. Odors. No objectionable odors shall be detectable beyond the limits of the property.

C. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high temperature processing, and as differentiated from general illumination, shall not be visible beyond the limits of the property.

D. Vibration. No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour.

E. Smoke. The Ringelman Smoke Chart, published by the United States Bureau of Mines, shall be used for measuring smoke at the point of emission. Smoke not darker or more opaque than No. 4 on said Chart may be emitted, except that smoke darker or more opaque than No. 2 on said Chart may not be emitted for periods longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but an equivalent apparent opacity.

F. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurements of the amount of particles in gases resulting from combustions, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air.

G. Fumes or Gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight hour day, five days per week), Table III (Odor Thresholds), Table IV (Exposure to Substances Causing Pain in the Eyes), and Table I (Exposure to Substances Causing Injury to Vegetation) in the latest revision of Chapter 5, “Physiological Effects”, that contains such tables, in “Air Pollution Abatement Manual”, by the Manufacturing Chemists’ Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentration or amounts. Detailed

plans for the elimination of fumes or gases may be required before the issuance of a building permit.

H. Sewer and Water. The design and construction of water supply facilities and treatment of all industrial sewage and waste shall comply with City and State health standards and requirements.

Subd. 6. Screening, Landscaping, Lighting, Storage and Outdoor Displays.

A. Screening. All principal and accessory uses, except business signs, which are situated within fifty (50) feet of a residential district, shall be screened from such district by a wall or fence of not less than ninety (90) percent opacity and not less than five (5) nor more than seven (7) feet in height above the level of the residential district property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the Council if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this Chapter would interfere with the provision of adequate amounts of light and air to same said properties. Loading docks in the “C-1”, “I-1" and “I-2" Districts shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

B. Landscaping. All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.

C. Lighting. All sources of artificial light situated in a “C-1", “I-1" and “I-2" District site shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential property by more than 0.1 foot candle in or within twenty-five (25) feet of a dwelling nor more than 0.5 foot candle on any other part of the property. “Glare”, whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limits of the immediate site from which it originates.

D. Storage - Displays. All materials, supplies, merchandise or other similar matter not on display for a direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the “C-1", “I-1" and “I-2" Districts, or within the confines of a one hundred (100) percent opaque wall or fence not less than five (5) feet high. Merchandise which is offered for sale as

described above may be displayed beyond the confines of a building in the “C-1", “I-1" and I-2" Districts, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten (10) percent of the ground floor area of the building housing the principal use, unless such merchandise is of a type customarily displayed outdoors such as garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street.

Subd. 7. Requirements for Vehicular and Pedestrian Circulation.

A. Traffic and Circulation. All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaced with a hard, all-weather, durable, dust-free material and property drained. Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the City Engineer who may require such additional measures for traffic control and he/she may deem necessary, including but not limited to the following: directional signalization, channelization, standby turn lanes, illumination, and storage area and distribution facilities within the commercial site to prevent back-up of vehicles on public streets.

B. No area used by motor vehicles other than driveways serving as ingress and egress to the commercial site shall be located within the public street right-of-way.

C. All driveways to or from public streets shall be subject to the following restrictions:

1. Driveway Widths: (Measurement Between Roadway Edges).

Type	Maximum Feet	Minimum Feet
One-way	20	12
Two-way	30	24

2. Minimum Driveway Angle to Street: Thirty (30) degrees when street is one-way or divided, otherwise sixty (60) degrees.

3. Minimum Distance Between Driveways: Twenty (20) feet, between roadway edges measured along street curb line.

4. Minimum Distance of Driveway From Street Intersections: (Measured along street curb line between nearest driveway edge and intersecting street curb line).

Chart A

If the driveway enters a street classified as a:	and the intersecting street is classified as a	and the driveway enters land approaching or leaving intersection	
		Approaching	**Leaving***
Minor Street	Minor Street, Collector Street or Minor Arterial	15ft	15ft
	Major Arterial	15ft	20ft
Collector Street	Minor Street	20ft	15ft
	Collector Street or Minor Arterial	15ft	15ft
	Major Arterial	35ft	20ft
Major Arterial	Minor Street	20ft	15ft
	Collector Street or Minor Arterial	25ft	15ft
	Major Arterial	40ft	20ft
	Expressway Ramp	200ft	100ft

* NOTE: Minimum distance to be the same as that specified for approaching lane if left turns are permitted into or out of driveway.

Subd. 8. General Regulations.

Additional regulations applicable to the "C-1" District are set forth in Section 11.20 of this Chapter.

SECTION 11.08. "I-1" LIGHT INDUSTRIAL DISTRICT.

Subd. 1. Purpose.

The "I-1" District is intended for conducting a process, fabrication, wholesale operation, manufacturing, providing a service, or assembly of products and materials provided such use will not generate offensive odors, glare, smoke, dust, noise, vibrations, or other objectionable influences that extend beyond the lot on which the use is located and that all development uses are conducted wholly within a building.

Subd. 2. Permitted Uses.

Within an "I-1" District, unless otherwise provided by this Chapter, no building or land shall be used except for the following:

1. Those uses as first permitted, and as regulated in Section 11.07 ("C-1" District), shall be a permitted use.

2. Appliance assembly and warehousing.

3. Machine shops.

4. Electrical and electronic manufacturing establishments.

5. Light assembly and manufacturing operations.

6. Airports.

7. Bottling establishments.

8. Building materials sales and storage establishments.

9. Camera and photographic manufacturing establishments.

10. Cartage and express facilities.

11. Heliports.

12. Jewelry manufacturers.

13. Medical, dental and optical laboratories.

14. Public utility structures and municipal and government buildings.

15. Railroad rights-of-way.

16. Storage and warehousing facilities.

17. Wholesale business and office establishments.

18. Blacksmith shops.

19. Manufacturing, processing, storage, servicing and testing establishments.

20. Accessory uses, as follows:

a. Accessory uses, except signs, customarily incident to the above permitted uses.

b. Signs as regulated in Section 11.20, Subdivision 11, Sign Regulations.

c. Off-street parking and loading as regulated by Section 11.20, Subdivision 12, General Regulations, which shall be provided on the premises.

Source: Ordinance No. 130
Effective Date: 12-24-1971

21. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve livability of the unit provided the number of dwelling units in the building are not increased.

Source: Ordinance No. 171
Effective Date: 05-17-1978

22. A residential dwelling currently existing on a lot or parcel of land in the I-1 District may be replaced by a newly constructed residential dwelling provided the number of dwelling units in the building are not increased.

Source: Ordinance No. 73, 3rd Series
Effective Date: 11-20-1987

Subd. 3. Uses by Conditional Use Permit.

Within an "I-1" District, buildings or land may be used for one or more of the following uses if granted a Conditional Use Permit as provided in Section 11.40.

A. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, goods, or products similar to those listed in Subdivision 2 of this Section, which comply with the performance standards of this District.

B. Extraction, processing or storage of sand, gravel, stone or other raw material subject also to the following special provisions and limitations.

C. Removal of Soil, Sand or Other Material:

1. Temporary Excavation District: The use of land for the removal of topsoil, sand or gravel, and other material from the land is not permitted in any zone except by the granting of a temporary excavation permit by the Council. Permits shall be issued for a maximum period of one (1) year and shall be subject to review and rehearing at that time.

2. Future Use of the Land: The persons applying for a temporary excavation permit must submit a plan of intent as to the future use of the property being excavated as well as development plans showing proposed elevations, drainage, access routes to be used in hauling to and/or from the site and daily hours intended for the operation as well as projected period of excavation.

3. Safety Precautions: If during the excavation work, it becomes necessary for the person excavating to create a condition of grade or drainage not in the interest of health or safety, it shall become that person's duty to correct, immediately, the dangerous situation created, as well as fence such area from the general public during the period of danger.

4. Bonding: It shall be necessary for the person securing a temporary excavation permit to present adequate proof of bonding to the City in the form of a performance bond, sufficient in value to cover the expense of the completion of the development plan or to bring such portion of the completed project to a safe grade and elevation so as to be healthful and safe to the general public and to provide safe and adequate drainage of the site.

D. Retail and service establishments, of an essential or convenience nature consistent with the operation of an Industrial District.

Subd. 4. Height, Yard and Lot Coverage Regulations.

A. Height Regulations. No structure shall exceed four (4) stories or forty-five (45) feet in height whichever is less.

B. Yard Regulations.

1. No building shall be located within fifty (50) feet of any residential district.

2. Except for railroad loading areas, no parking or loading space shall be located within twenty-five (25) feet of any residential district.

3. Any open storage of materials or open loading areas shall be located or screened so as not to be visible from any residential district.

Subd. 5. Performance Standards.

The performance standards of the "I-1" District shall be those of Section 11.07, Subdivision 5, except that measurement or determination of noise, odor, and vibration shall be made at the boundary of the "I-1" District, rather than at the property line of the use concerned.

Subd. 6. Screening, Landscaping, Lighting, Storage and Outdoor Displays.

The regulations shall be those of Section 11.07, Subdivision 6, as regulated therein.

Subd. 7. General Regulations.

Additional regulations applicable to the “I-1” District are set forth in Section 11.20 of this Chapter.

SECTION 11.09. “I-2" HEAVY INDUSTRIAL DISTRICT.

Subd. 1. Purpose.

The “I-2” District is intended to provide a district which will allow all manufacture, compounding, processing, packaging, treatment, or assembly of products and materials which due to their size and nature, would not conform in the “I-1” District.

Subd. 2. Permitted Uses.

Within an “I-2” District, unless otherwise provided by this Chapter, no building or land shall be used except for the following:

1. Those uses as first permitted, and as regulated in Section 11.08 (“I-1" District), shall be a permitted use.

2. Canning factories, and creameries, food processing plants including smoking and curing operations.

3. Contractor’s offices, shops and yards for plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, air conditioning, masonry, electrical and refrigeration industries.

4. Cooperatives.

5. Freight terminals and classification yards.

6. Fuel and ice sales and storage facilities, including bulk fuel storage.

7. Garages for storage, repair, and servicing of motor vehicles and farm implements.

8. Gasoline and oil bulk stations and distributing plants.

9. Hatcheries.

10. Grain elevators, milling and processing activities.

11. Highway maintenance shops and yards.

12. Monument works, cutting, grinding and polishing operations (excavation excluded).

13. Poultry and animal rendering plants, processing and treatment yards.

14. Accessory uses, as follows:

a. Accessory uses, except signs, customarily incident to the above permitted uses.

b. Signs as regulated in Section 11.20, Subdivision 11, Sign Regulations.

c. Off-street parking and loading as regulated by Section 11.20, Subdivision 12, General Regulations, which shall be provided on the premises.

Source: Ordinance No. 130
Effective Date: 12-24-1971

15. A residential dwelling currently existing on a lot or parcel of land in the I-2 District may be replaced by a newly constructed residential dwelling provided the number of dwelling units in the building are not increased.

Source: Ordinance No. 73, 3rd Series
Effective Date: 11-20-1987

Subd. 3. Uses by Conditional Use Permit.

Within an "I-2" District, buildings or land may be used for one (1) or more of the following uses if granted a Conditional Use Permit as provided in Section 11.40.

A. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, goods, or products similar to those listed in this Section, Subdivision 2, which comply with the performance standards of this District.

B. Storage, utilization or manufacture of materials or products which could decompose on detonation.

C. Automobile wrecking and/or junk yards, provided such use is conducted within a building or the premises on which such business is conducted is entirely enclosed within a solid substantial fence, except for gates, not less than eight (8) feet in height. The term "solid" as used herein shall mean a fence having an opacity of one hundred (100) percent.

D. Mobile home park development, subject to the regulations as established in Section 11.20, Subdivision 13, Minimum Mobile Home Park Requirements.

E. Retail and service establishments, of an essential or convenience nature consistent with the operation of an Industrial District.

Subd. 4. Height, Yard and Lot Coverage Regulations.

A. Height Regulations. No structure shall exceed four (4) stories or forty-five (45) feet in height whichever is less.

B. Yard Regulations.

1. No building shall be located within fifty (50) feet of any residential district.

2. Except for railroad loading areas, no parking or loading space shall be located within twenty-five (25) feet of any residential district.

3. Any open storage of materials or open loading areas shall be located or screened so as not to be visible from any residential district.

Subd. 5. Performance Standards.

The performance standards of the "I-2" District shall be those of Section 11.07, Subdivision 5, except that measurement or determination of noise, odor and vibration shall be made at the boundary of the "I-2" District, rather than at the property line of the use concerned.

Subd. 6. Screening, Landscaping, Lighting, Storage and Outdoor Displays.

The regulations shall be those of Section 11.07, Subdivision 6, as regulated therein.

Subd. 7. General Regulations.

Additional regulations applicable to the "I-2" District are set forth in Section 11.20 of this Chapter.

Source: Ordinance No. 130
Effective Date: 12-24-1971

(Pages 34 through 44, inclusive, are reserved for future expansion)

SECTION 11.10. FLOOD PLAIN DISTRICT.

Subd. 1. Statutory Authorization, Findings of Fact and Purpose.

A. Statutory Authorization. The Legislature of the State of Minnesota has, in MN Stat., Chapter 104 and Chapter 462, delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statutes, Chapter 104, further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program.

B. Statement of Purpose. The purpose of this Section is to maintain the City's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

C. Warning of Disclaimer of Liability. This Section does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Section 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 Section or any administrative decisions lawfully made thereunder.

Subd. 2. General Provisions.

A. Adoption of Flood Insurance Rate Map. The Flood Insurance Rate Map for the City of Wadena, dated July 17, 1986, developed by the Federal Emergency Management Agency is hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this Section.

B. Land to Which Flood Plain District Applies. This Section shall apply to all lands designated as flood plain within the jurisdiction of the City of Wadena.

C. Interpretation. The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the Planning and Zoning Director shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the City shall: (1) require a flood plain evaluation consistent with the requirements of this Section to determine a 100-year flood elevation for the site; or (2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

D. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Accessory Use or Structure" - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

2. "Basement" - Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

3. "Flood Fringe" - That portion of the flood plain outside of the floodway.

4. "Flood Plain" - The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain areas within the City of Wadena shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.

5. "Floodway" - The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the the regional flood discharge.

6. "Obstruction" - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory flood plain which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.

7. "Regional Flood" - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Rate Map.

8. "Regulatory Flood Protection Elevation" - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation caused by encroachments on the flood plain that result from designation of a floodway.

9. "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 Subd. 12, Subparagraph A of this Section, and other similar items.

Subd. 3. Conflict With Pre-Existing Zoning Regulations and General Compliance.

A. The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the City. The uses permitted in Subdivisions 4 and 5 of this Section shall be permitted only if not prohibited by any established, underlying zoning district.

B. Compliance. 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 Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe, all uses not listed as permitted uses in Subd. 4 shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subdivisions 4 and 12;

2. Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Section and specifically Subd. 9; and,

3. As-built elevations for elevated structures must be certified by ground surveys as stated in Subd. 7.

Subd. 4. Permitted Uses, Standards, and Flood Plain Evaluation Criteria.

A. Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:

1. Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.

2. Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in Subparagraph B of this Subdivision and the flood plain evaluation criteria in Subparagraph C of this Subdivision for determining floodway and flood fringe boundaries.

3. Travel trailers and travel vehicles are requested by Subd. 12.

B. Standards for Flood Plain Permitted Uses.

1. 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.

2. Storage of Materials and Equipment.

a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.

c. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

d. All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the basement floor, or first floor if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation must be no lower than one foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.

e. All Uses. Uses that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Planning Commission. In granting a variance, the Commission shall specify limitations on the period of use or occupancy of the use and only after determining the adequate flood warning time and local emergency response and recovery procedures exist.

f. Commercial and Manufacturing 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 two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

g. 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 Subdivision.

h. 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. Flood Plain Evaluation.

1. Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the flood plain district, the Planning and Zoning Director shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.

2. The Planning and Zoning Director shall submit one copy of all information required by Item 1, above, to the respective Department of Natural Resources' Area Hydrologist for review and comment at least 20 days prior to the granting of a permit or manufactured home park development/subdivision approval by the City. The Planning and Zoning Director shall notify the respective Department of Natural Resources Area Hydrologist within l0 days after a permit or manufactured home park development/subdivision approval is granted.

Subd. 5. Utilities, Railroads, Roads and Bridges in the Flood Plain District.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with State Flood Plain Management Standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

Subd. 6. Subdivisions.

A. No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the Planning Commission for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The Planning Commission shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

B. In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Subdivision 4, Subparagraph C, Item 1, of this Section. The Planning and Zoning Director shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in Subdivision 4, Subparagraphs B and C, and Subdivision 5 of this Section.

C. For all subdivisions in the flood plain, 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.

D. 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 to 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 or a change of special flood hazard area designation will be requested.

E. This Subdivision is not intended as a substitute for a comprehensive City or County subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions.

Subd. 7. Administration.

A. Permit Required. A Permit issued by the Planning and Zoning Director shall be secured prior to the construction, addition, or alteration of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the

change or extension of a non-conforming use; and prior to the excavation or the placement of an obstruction within the flood plain.

B. State and Federal Permits. Prior to granting a Permit or processing an application for a Variance, the Planning and Zoning Director shall determine that the applicant has obtained all necessary State and Federal permits.

C. Certification of First Floor Elevations. 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 Section. The Planning and Zoning Director shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.

Subd. 8. Variances.

A. A variance means a modification of a specific permitted development standard required in an official control including this Section 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 circumstances as defined and elaborated upon in a City's respective planning and zoning enabling legislation.

B. The Planning Commission may authorize upon appeal in specific cases such relief or variance from the terms of this Section 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 Planning Commission 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.

C. Variances from the provisions of this Section may be authorized where the Planning Commission has determined the variance will not be contrary to the public interest and the spirit and intent of this Section. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

D. The Planning and Zoning Department shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a Variance shall be forwarded bymail to the Commissioner of Natural Resources within ten (10) days of such action.

E. Appeals. Appeals from any decision of the Planning Commission may be made, and as specified in the City's Official Controls and also in Minnesota Statutes.

F. Flood Insurance Notice and Record Keeping. The Planning and Zoning Director 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 $25.00 for $l00.00 of insurance coverage; and (2) 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.

Subd. 9. Non-Conformities.

A structure or the use of a structure or premises which was lawful before the effective date of this Section but which is not in conformity with the provisions of this Section 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 non-conformity.

B. An alteration within the inside dimensions of a non-conforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

C. The cost of all structural alterations or additions both inside and outside of a structure to any non-conforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Subparagraph are satisfied. The cost of all structural alterations and additions constructed since the adoption of the City's initial flood plain 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 percent of the current market value of the structure, then the structure must meet the standards of Subd. 4 of this Section for new structures.

D. If any non-conforming use of a structure or land or non-conforming structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Section. The Planning and Zoning Director may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Section.

Subd. 10. Unlawful Acts.

Violation of the provisions of this Section 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) is unlawful.

A. In responding to a suspected City Code violation, the Planning and Zoning Director and the Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct City Code violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

B. When a City Code violation is either discovered by or brought to the attention of the Planning and Zoning Director, the Planning and Zoning Director shall immediately investigate the situation and document the 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 City's plan of action to correct the violation to the degree possible.

C. The Planning and Zoning Director shall notify the suspected party of the requirements of this Section 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 Planning and Zoning Director may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed, then the Planning and 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 Planning and Zoning Director within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The Planning and Zoning Director 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 this Section.

Subd. 11. Amendments.

All amendments to this Section, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural

Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. 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. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

Subd. 12. Travel Trailers and Travel Vehicles.

Travel trailers and travel vehicles that do not meet the exemption criteria specified in Subparagrah A, below, shall be subject to the provisions of this Section and as specifically spelled out in Subparagraphs C and D, below.

A. Travel trailers and travel vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Subparagraph B, below, and further they meet the following criteria:

1. Have current licenses required for highway use.

2. 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.

3. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

B. Areas Exempted for Placement of Travel/ Recreational Vehicles:

1. Individual lots or parcels of record.

2. Existing commercial recreational vehicle parks or campgrounds.

3. Existing condominium type associations.

C. Travel trailers and travel vehicles exempted in Subparagraph A, above, lose this exemption when development occurs on the parcel exceeding $500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or 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 requirements and the use of land restrictions specified in Subdivision 4 of this Section.

D. Travel trailers/travel vehicles (including replacements and new commercial type uses and residential type subdivisions) are not permissible in the flood plain.

E. 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 five (5) units or dwelling sites shall be subject to the following:

1. 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 fill above the Regulatory Flood Protection Elevation determined in accordance with the provisions of Subdivision 4, Subparagraph C of this Section and proper elevated road access to the site exists in accordance with Subdivision 4. No fill placed in the floodway to meet the requirements of this Subdivision shall increase flood stages of the l00-year or regional flood.

2. All new or replacement travel trailers or travel vehicles not meeting the criteria of Item 1, above, may, as an alternative, be allowed if in accordance with the following provisions. 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 Subdivision 4, Subparagraph B, 7, of this Section.

Source: Ordinance No. 82, 3rd Series
Effective Date: 08-31-1990

SECTION 11.11. “PID" PLANNED INDUSTRIAL DISTRICT.

Subd. 1. Purpose.

The "PID" is intended to provide for certain industrial uses that, because of location, transportation, access and other land use factors, must necessarily be located and adjacent to lesser land use intensities, and with proper control, these areas should become compatible with and maintain the value of properties and uses adjacent to them.

Subd. 2. Permitted Uses.

Within a "PID", no building or land shall be used, and no building shall be erected, structurally altered, converted or enlarged except for one or more of the following uses:

1. Bottling establishments.

2. Building material sales and storage establishments.

3. Broadcasting antennae, television and radio.

4. Cartage and express facilities.

5. Cartography and bookbinding establishments.

6. Manufacturing, compounding, processing, packaging, treatment and assembly of products and materials.

7. Offices.

8. Scientific research, investigation, testing or experimentation.

9. Warehousing of products.

10. Electrical and electronic products manufacturers.

11. Engraving, printing, and publishing establishments.

12. Medical, dental and optical laboratories.

13. Public utility structures and municipal and governmental buildings.

14. Railroad rights-of-way.

15. Storage or warehousing facilities.

16. Wholesale business and office establishments.

Subd. 3. Uses by Conditional Use Permit.

Within a "PID", no building or land shall be used for one or more of the following uses except by conditional use permit:

A. Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products similar to those listed in Subdivision 2 of this Section which conform with the performance standards set forth in Section 11.07, Subdivision 5.

B. Retail and service establishments of an essential or convenience nature consistent with the operation of a Planned Industrial District.

Subd. 4. Height, Yard Frontage, Area and Lot Coverage Regulations.

A. Height Regulations. No building shall hereafter be erected to exceed a height of three (3) stories except that buildings permitted in this District may be erected to greater heights if the building is set back from each required yard line at least one more foot for each foot of additional height above 35 feet.

B. Front Yard Regulations. There shall be a front yard having a depth of not less than fifty (50) feet between building and the street right-of-way line.

1. Except where the district abuts or adjoins Residence Districts across the street, there shall be a front yard having a depth of not less than seventy-five (75) feet.

C. Side Yard Regulations. There shall be two (2) side yards, one (1) on each side of a building. Each side yard shall be not less than twenty (20) feet in width.

1. Except where the district abuts or adjoins Residence Districts, the side yard abutting said Residence District shall be not less than seventy-five (75) feet in width.

D. Rear Yard Regulations. There shall be a rear yard not less than fifty (50) feet in depth, except where lots abut railroad siding and where the districts abut or adjoin Residence District, there shall be a rear yard of not less than one hundred (100) feet in depth.

E. Lot Area Regulations. Every individual lot, site or tract shall have an area of not less than two (2) acres.

F. Minimum District Area Regulations. No “PID” shall be established on any tract, which is less than eighty (80) acres. This requirement may be waived if the tract is in single ownership or under unified control where tract abuts or adjoins at least twenty-five (25) percent of the perimeter of a “PID”,

G. Frontage Regulations. Every lot or tract shall have a width of not less than two hundred (200) feet abutting a public right-of-way.

H. Lot Coverage Regulations. Not more than thirty-five (35) percent of the total area of a lot shall be covered by buildings.

Subd. 5. Procedures.

A. All petitions for rezoning to establish or expand must also concurrently follow subdivision platting procedures and a complete preliminary plat with all supporting data required, must be filed with the Planning Commission.

B. All public rights-of-way within a “PID” shall be considered streets or thoroughfares as defined in the Thoroughfare Plan.

C. Over-all Development Plan. Every application for the establishment of a “PID” shall be accompanied by the following documents, which, in their entirety, shall constitute an over-all development plan for the property described in the application.

1. A boundary survey and legal description of the entire tract covered by the application, prepared by a registered land surveyor.

2. A land use plan prepared by a person trained or experienced in land use planning. The Plan shall be to scale and shall show the following:

a. The relationship of the application area to surrounding properties, section lines, and other existing features such as streets and highways, buildings, railroads and utilities.

b. The alignment and functional classification of all proposed streets.

c. The alignment and characteristics of all proposed railroad facilities.

d. The dimensions and areas of all lots and blocks.

3. The arrangement and extent of all land use classifications, and zoning districts preliminary layout of all proposed water mains, sanitary sewers and storm drainage facilities, together with profiles and typical design cross-sections for all street, roadways, and a general over-all site grading plan, including arrows indicating direction and destination of surface drainage. Such layouts, profiles, design cross-sections, and plans shall be prepared by a registered land surveyor or civil engineer.

4. Copies of all proposed protective covenants, and any provisions for associations of individual owners.

5. The names and addresses of all persons holding fee title to the entire land area included in the Over-all Development Plan as well as the names and addresses of all persons engaged in developing and managing said plan.

6. The owners or developers contemplated development schedule.

7. The owners and developers contemplated cost of all street, sanitary sewer, storm sewer and water main improvements.

8. Upon a finding by the Planning Commission and Council that the proposed “PID” and preliminary plat will be consistent with long range comprehensive

plans for the City and meet the requirements of the "PID", the Council may establish a “PID” on the property included in the preliminary plat. The preliminary plat as approved together with such covenants, deed restrictions, controls, or special Conditional Use Permits as may be attached to it, shall become a part of the Ordinance establishing the zoning change. Any change in the plan will require resubmission to the Planning Commission and final approval by the Council.

9. The final platting of the land zoned “PID” shall be subject to such requirements for approval, recording, and the installation of improvements as required by other City Code provisions.

Subd. 6. Performance Standards.

A. Intent. It is the intent of this Subdivision to provide that industry and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties.

B. Performance Standards. The performance standards of the "PID" shall be those of Section 11.07, Subdivision 5, except that measurement or determination of noise, odor, and vibration shall be made at the boundary of the "PID" rather than at the property line of the use concerned.

C. Regulations on Screening, Landscaping, Lighting, Storage and Outdoor Displays. The regulations shall be those of Section 11.07, Subdivision 6, as regulated therein.

Subd. 7. Building Design and Construction.

A. In addition to other restrictions of this Chapter and any other City Code provision, any building or structure within the Planned Industrial District shall meet the following standards:

1. All exterior walls finished on any building shall be any single one or combination of the following:

a. Face brick.

b. Concrete block.

c. Natural stone.

d. Special designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture.

e. Factory fabricated and finished metal framed panel construction, if the panel materials are any of those named above, glass, prefinished metal (other than unpainted galvanized iron) or plastic.

f. Other material as may be approved by the Council.

B. All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be designed in a manner conforming and harmonizing with the original architectural design and general appearance.

C. Any other exterior wall finishes, or any changes in architectural design must be approved by the Council.

Subd. 8. General Regulations.

A. Signs as regulated in Section 11.20, Subdivision 11, Subparagraph D.

B. Off-street parking and loading as regulated in Section 11.20, Subdivision 12, Subparagraphs B and C.

Source: Ordinance No. 6, 3rd Series
Effective Date: 01-17-1980

(Sections 11.12 through 11.19, inclusive, reserved for future expansion.)

(Pages 60 through 70, inclusive, are reserved for future expansion)

SECTION 11.20. GENERAL REGULATIONS.

Subd. 1. Scope of Regulations.

A. Except as may otherwise be provided in Section 11.30, Non-Conforming Structures and Uses, all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of additions to existing uses occurring hereafter shall be subject to all regulations of this Chapter which are applicable to the zoning districts in which such buildings, uses or land shall be located.

B. No application for a building permit or other permit or license, or for a certificate of zoning compliance shall be approved by the Zoning Enforcement Officer and no permit or license shall be issued by any other City Department which would authorize the use or change in use of any land or building contrary to the provisions of this Chapter, or the erection, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this Chapter.

C. Area Regulations. No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided, nor shall the area of any lot be reduced below the minimum requirement herein established.

Subd. 2. Erection of More Than One Principal Structure on a Lot.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Chapter shall be met for each structure as though it were on an individual lot.

Subd. 3. Accessory Buildings.

In case an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building.

A. An accessory building, unless attached to and made a part of the main building, shall not be closer than five (5) feet to the main building.

B. A detached accessory building shall not be located in any required front yard.

C. A detached accessory building not over one (1) story and not exceeding twelve (12) feet in height (measured from ground to eaves) shall occupy not more than thirty (30) percent of the area of any side or rear yard, providing further that no detached accessory building shall be placed nearer than two and one-half (2.5) feet

from any side or rear lot line, except that a two-stall garage may be used jointly and solely by the families living on two (2) adjacent lots and may be built so as to place one (1) stall on each side or rear lot line, provided that the two (2) stalls are separated by a fire wall.

Subd. 4. Height Regulations.

A. Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.

B. Height limitations set forth elsewhere in this Chapter may be increased by one hundred (100) percent when applied to the following: chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, water towers, stacks, stage towers, or scenery lofts, tanks, ornamental towers and spires, wireless towers, or necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Subd. 5. Yard Regulations.

The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Chapter. Measurements shall be taken from subject to the following requirements:

A. Every part of a required yard or court shall be open from its lowest point to the sky, unobstructed except for the ordinary projection of window wells above the bottom of such yard or court and except for the projections of sills, belt courses, cornices and ornamental features not to exceed eighteen (18) inches.

B. Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting into a yard not more than two (2) feet or into a court not more than three and one-half (3.5) feet shall be permitted, where the same are to be so placed as not to obstruct light and ventilation.

C. A yard, court, or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall not again be used as a yard, court, or other open space for another building.

D. The setback requirements shall be observed on each street side of a corner lot; provided, however, that the buildable width of a lot shall not be reduced to less than thirty (30) feet.

E. Yards for Open Land Uses. Where a lot is to be occupied for permitted uses without buildings or structures thereon, the side yards and front yards required herein for the zone within which such lot is located, shall be provided and main-

tained between such use and the respective lot lines; provided that side and rear yards shall not be required on lots without buildings or structures, used for garden purposes or public playgrounds.

F. Permitted Obstructions in Required Yards: The following shall not be considered to be obstructions when located in the required yards specified:

1. In Front Yards: One story bay windows projecting three (3) feet or less into the yard; and overhanging eaves and gutters projecting two and one-half (2.5) feet or less into the yard.

a. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than three (3) feet may be placed around such place.

b. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view.

c. On double frontage lots, the required front yard shall be provided on both streets.

d. (Repealed by Ordinance No. 72, 3rd Series, adopted 08-12-1987.)

2. In Side Yards: Overhanging eaves and gutters projecting into the yard for a distance of two (2) inches per foot of required side yard.

3. In Rear Yards: Enclosed, attached or detached off-street parking spaces; open off-street parking spaces; accessory structures, tool rooms, and similar buildings or structures for domestic storage; balconies; breezeways and open porches; one story bay windows projecting two and one-half (2.5) feet or less into the yard; and overhanging eaves and gutters projecting two and one-half (2.5) feet or less into the yard. In determining the depth of rear yard for any building where the rear yard opens into an alley, one-half (1/2) the width of the alley, but not exceeding ten (10) feet, may be considered as a portion of the rear yard.

Source: Ordinance No. 130
Effective Date: 12-24-1971

Subd. 6. Fences.

A. Fences. Fences in a residential district shall be limited to four (4) feet in height from the front of the dwelling to the front property line and six (6) feet in height from the front of the dwelling to the rear yard setback, fence setback requirements

are six (6) inches for side yard and rear yard property lines, with written consent of the contiguous property owners, fence can be constructed on property line. Except fences must be constructed 2.5 feet from any platted alley. Fences shall comply with vision clearance requirements for corner and interior lots.

B. Vision Clearance; Fences, Walls in Front Yard. In any residence zone or any corner lot, no fence or accessory structure or planting shall rise over two and one-half (2.5) feet in height above the level of the public sidewalk within twenty (20) feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall or shrub planting of more than two and one-half (2.5) feet in height above the level of the public sidewalk shall be erected on any interior lot within ten (10) feet of the front property line where it will interfere with traffic visibility from a driveway.

C. Swimming Pools. Swimming pools of a permanent nature must be enclosed by a fence of at least five (5) feet in height.

D. Public Right-of-Way. No fence shall be permitted on a public right-of-way or boulevard area.

E. Residential District. No barbed wire shall be allowed in a residential district except barbed wire fences presently used in farming operations.

F. Screening Wall. For patio/decks screening walls that do not extend more than twenty (20) feet in length, may exceed the six (6) foot height limitation if the wall does not encroach upon side yard and rear yard lot setback requirements.

G. Commercial/Industrial District. No barbed wire shall be used for fencing except that it may be used on security fences which are at least six (6) feet high exclusive of the barbed wire.

H. Height Limitation. Fences in a Commercial or Industrial District shall be limited to six (6) feet in height.

I. Fence Maintenance. Both sides of fences shall be maintained in good condition both in appearance and in structure. Wood material, other than decay resistance varieties, shall be protected against decay by use of paint or other preservative. If twenty-five (25) percent or more of the painted surface of a fence is determined by the enforcement officer to be paint blistered, the surface shall be properly scraped and repainted. Maintenance is a responsibility of owner.

Source: Ordinance No. 119, 3rd Series
Effective Date: 05-22-1998

Subd. 7. Street Closures.

Whenever any street, alley, or other public way is vacated by official action of the City, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

Subd. 8. Areas Under Water.

All areas within the corporate limits of the City which are under water and not shown as included within any zone shall be subject to all of the regulations of the zone which immediately adjoins the water area. If the water area adjoins two or more zones, the boundaries of each zone shall be construed to extend into the water area in a straight line until they meet the other district at a halfway point.

Subd. 9. Essential Services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the City in any district, it being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this Chapter.

Subd. 10. Structures to Have Access.

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Subd. 11. Sign Regulations.

All signs hereafter erected or maintained, except official, public traffic, and street signs, shall conform with the provisions of this Subdivision and other provisions of the City Code or regulation of the City.

A. General Provisions For All Districts. The following regulations shall apply to all signs hereafter permitted in all Districts:

Source: Ordinance No. 130
Effective Date: 12-24-1971

1. Signs shall not be permitted within the public right-of-way or easements except a name plate sign erected under a store front canopy near the entrance identifying a place of business, provided such sign does not exceed 18" x 48"

and such sign shall be limited to one (1) for a lot of fifty (50) foot frontage or less. Such sign may be illuminated.

Source: Ordinance No. 55, 3rd Series
Effective Date: 05-15-1985

a. Any sign which is suspended from or forming part of a canopy, awning, mansard roof, which sign does not extend more than 24 inches into the right-of-way, and sign is erected parallel with the building, sign and structure shall be of a height not less than eight (8) feet from the sidewalk or ground grade line.

Source: Ordinance No. 98, 3rd Series
Effective Date: 04-30-1993

2. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.

3. No sign shall be placed that resembles any official marker erected by a governmental agency or displaying such words as "stop" or "danger".

4. No sign shall be permitted to obstruct any door, fire escape, stairway or opening intended to provide access to any building or structure.

5. Upon notification by the Council or Zoning Administrator that a sign is rotted, unsafe or unsightly, the owner of said sign or owner of property thereunder shall remove or repair same.

6. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

Source: Ordinance No. 5, 3rd Series
Effective Date: 01-17-1980

7. Campaign Signs. Non-commercial campaign signs of any size may be posted in any number from August 1 in a State general election year until 10 days following the State general election. The subject matter of a campaign sign must relate to an election in which a candidate is running or issue to be decided.

Source: Ordinance No. 165, 3rd Series
Effective Date: 11-20-2005

8. Rotating signs or flashing signs shall not be permitted.

B. Signs in R-1 and R-2 Residential Districts: No sign shall be erected in any R-1 or R-2 District except:

Source: Ordinance No. 130
Effective Date: 12-24-1971

1. A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed six (6) square feet in surface area and five (5) feet in height. Such signs may be illuminated.

Source: Ordinance No. 139, 3rd Series
Effective Date: 05-19-2000

2. A sign pertaining to the lease or sale of the building or property, provided such sign does not exceed four (4) square feet in surface area. Such signs shall not be illuminated.

3. A temporary sign identifying an engineer, architect, contractor or product engaged in or used in the construction of a building, provided such sign does not exceed four (4) square feet in surface area and is removed prior to the occupancy of the building. Such sign shall not be illuminated.

4. (Repealed by Ordinance No. 41, 3rd Series, adopted 02-22-1984.)

5. Public street identification signs, traffic signs, and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.

C. Signs in "CB" and "C-1" Districts: Signs may be erected in Commercial Districts subject to the following provisions:

1. The total surface area of all business signs on a lot shall not exceed two (2) square feet per lineal foot of lot frontage or ten (l0) percent of the building frontage area, or seventy-five (75) square feet in area, whichever is greater. Signs may be illuminated.

2. (Repealed by Ordinance No. 147, 3rd Series, adopted 12-10-2002).

3. (Repealed by Ordinance No. 147, 3rd Series, adopted 12-10-2002).

4. (Repealed by Ordinance No. 147, 3rd Series, adopted 12-10-2002).

5. For corner lots, the “frontage” used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.

6. No sign shall project higher than six (6) feet above the height of the building, or thirty-two (32) feet above average grade at the building line, whichever is greater.

7. Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the Council and/or Zoning Administrator, they are not so maintained.

8. Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and such light shall be directed away from any Residential District.

Source: Ordinance No. 130
Effective Date: 12-24-1971

9. Billboard - Off Premise Signs shall not be a permitted use in "CB" and "C-1" Zoning Districts.

Source: Ordinance No. 147, 3rd Series
Effective Date: 12-20-2002

D. (Repealed by Ordinance No. 147, 3rd Series, adopted 12-10-2002).

E. Signs in the "I-1" and "I-2" Districts. Signs may be erected in Industrial Districts subject to the following provisions: The total surface area of all business signs, including billboard-off premise signs on a lot shall not exceed two (2) square feet per lineal foot of lot frontage of twenty (20) percent of the building frontage area or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated.

1. Billboard-Off Premise signs may be erected in "I-1" and "I-2" Zoning Districts.

2. Billboard-Off Premise sign structures shall not be erected within 500 feet of any picnic area, rest areas, playground, or park, in any direction.

3. Billboard-Off Premise sign structures shall not be erected within 500 feet of any existing Billboard-Off Premise sign structures on the same side of the highway and 250 feet between signs on the opposite side of the highway.

4. Billboard-Off Premise sign structures shall not be erected within 400 feet of the "CB" Central Business District.

5. Billboard-Off Premise sign structures shall not contain more than one sign surface, and shall not exceed 300 square feet in sign surface area. (Back to back signs will be allowed).

6. Billboard-Off Premise sign structures shall not exceed 30 feet in height as measured from the established grade.

Source: Ordinance No. 147, 3rd Series
Effective Date: 12-20-2002

Subd. 12. Off-Street Parking and Loading-Unloading Space Requirements.

A. Parking in the Central Business District. Uses located within the Central Business District are exempt from all off-street parking and loading requirements.

B. Parking Space Requirements. The required parking and loading spaces shall be provided on the premises of each use. Each parking space shall contain a minimum area of not less than three hundred (300) square feet including access drives and a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet. The minimum number of required off-street parking spaces for various uses shall be as follows:

1. One to Four Family Dwelling - One (1) parking space per unit. No garage shall be converted into living space unless other acceptable on-site parking space is provided.

2. Apartments - One and one-half (1.5) parking spaces for each apartment, except housing for the elderly projects, which shall provide three-tenths (.3) parking space for each dwelling unit.

3. Board Housing - One (1) parking space off-street per person owning motor vehicle.

4. Mobile Home Park - One and one-fourth (1.25) parking space per mobile home berth.

5. Motel or Motor Hotel - One (1) parking space for each rental room or suite.

6. Churches - One (1) parking space for each four (4) seats, based on the design capacity of the main seating area.

7. Elementary School or Junior High School - Two (2) parking spaces for each classroom.

8. Senior High School - One (1) parking space for each classroom plus one (1) parking space for each ten (10) students, based on design capacity.

9. Public Administration Buildings, Community Center, Public Library, Museum, Art Galleries, Post Office and Other Public Service Buildings - One (1) parking space for each five hundred (500) square feet of floor area in the principal structure.

10. Assembly or Exhibition Hall, Armory, Auditorium, Theater or Sports Arena - One (1) parking space for each four (4) seats, based on design capacity.

11. Golf Course, Golf Clubhouse, Country Club, Swimming Club, Tennis Club, Public Swimming Pool - Twenty (20) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principal structure.

12. Hospitals - One (1) parking space for each three (3) beds; Convalescent or Nursing Home - One (1) parking space for each four (4) beds.

13. Automobile Service Station - Four (4) parking spaces plus two (2) parking spaces for each service stall. Such parking spaces shall be in addition to gas pump service area.

14. Drive-in Restaurant - Twenty (20) parking spaces or one (1) space for each twenty (20) square feet of floor area, whichever is greater.

15. Restaurant, Café, Night Club, Tavern or Bar - One (1) parking space for each one hundred (100) square feet of floor area.

16. Bowling Alley - Five (5) parking spaces for each bowling lane.

17. Miniature Golf Course, Archery Range or Golf Driving Range - Ten (10) parking spaces.

18. Professional Offices, Medical and Dental Clinics and Animal Hospital - One (1) parking space for each five hundred (500) square feet of floor area.

19. Office Building - One (1) parking space for each five hundred (500) square feet of floor area.

Source: Ordinance No. 130
Effective Date: 12-24-1971

20. Retail Stores and Service Establishments - One (1) parking space for each two hundred (200) square feet of floor area.

Source: Ordinance No. 5, 3rd Series
Effective Date: 01-17-1980

21. Research, Experimental or Testing Stations - One (1) parking space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) square feet of gross floor area within the building, whichever is the greater.

22. Auto Sales, Trailer Sales, Marine and Boat Sales, Implement Sales, Garden Supply Store, Buildings Materials Sales, Auto Repair - One (1) parking space for each five hundred (500) square feet of floor area.

23. Shopping Center - Where several business uses are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three (3) square feet of gross parking area for each one (1) square foot of gross floor area; separate on-site space shall be provided for loading and unloading.

24. Storage, Wholesale or Warehouse Establishments - One (1) parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is greater, plus one (1) space for each company motor vehicle when customarily kept on the premises.

25. Manufacturing or Processing Plant - One (1) off-street parking space for each two (2) employees on the major shift or one (1) off-street parking space for each one thousand (1,000) square feet of gross floor area within the building, whichever is greater, plus one (1) space for all company motor vehicles when customarily kept on the premises.

C. Off-Street Loading Design and Maintenance.

1. Location. All required loading or unloading into or out of trucks in excess of 3/4 ton capacity, or railroad cars, shall be conducted at facilities specifically designed or designated for that purpose. These facilities shall be located upon the zoning lot of the principal use requiring them. All berths beyond one shall be separate from areas used for off-street parking.

2. Access. Each required off-street loading berth shall be so designed as to avoid undue interference with other vehicular or rail access or use of public streets, alleys, or other public transport system.

3. Surfacing. All off-street loading facilities, including loading berths and maneuvering areas, shall be surfaced with a hard, all-weather, dust-free durable surfacing material and shall be well drained and landscaped and shall be maintained in a sightly and well-kept condition.

4. Landscaping and Screening. All berths shall be screened from view from the property street frontage and/or from the zoning district boundary when the adjacent property or property across the street frontage or side street frontage is

zoned or used for residential purposes. Said screening shall be accomplished by a solid wall not less than eight (8) feet in height and shall be so designed as to be architecturally harmonious with the principal structure. Screen plantings may be substituted for the prescribed wall, however, such plantings must not be less than two and one-half (2.5) inches in diameter and of such type as to permit a minimum of ninety (90) percent opacity during all months of the year.

5. Design - Fifty (50) percent of the required number of truck berths shall be fifty (50) feet in length, twelve (12) feet in width and fifteen(15) feet in height. All loading areas shall consist of a maneuvering area in addition to the berth and shall not use any of that portion of the site containing parking stalls. Maneuvering areas shall be of such size as to permit the backing of truck tractors and coupled trailers into a berth, without blocking the use of other berths or drive or maneuvering areas.

6. Required Loading Areas.

a. Space for loading and unloading of goods, supplies and services shall be provided in addition to required off-street parking spaces and shall be sufficient to meet the requirements of each use.

b. The following uses shall observe required loading and unloading spaces as indicated:

Chart B

	Use	Required Spaces
1	Motels, Hotels, Lodging and Rooming Houses, Private Clubs and Lodges	One for each structure over 20,000 square feet of gross floor area.
2	Light and Heavy Commercial Uses Except Where Otherwise Specified	One space for the first 10,000 square feet of gross floor area and one space for each additional 50,000 feet of gross floor area.
3	Auditorium, Stadium, Gymnasium, Community Centers, and Religious Institutions and Schools (private and public)	One for every structure over 100,000 square feet of gross floor area.
4	Office Building and Professional Offices (other than Doctor and Dentist), Banks	One space for buildings between 30,000 and 100,000 square feet of gross floor area and one additional space for each additional 100,000 square feet of gross floor area.

Chart B

	Use	Required Spaces
5	Restaurants and Other Food Dispensing Establishments Except Drive-in Restaurants	One for each structure with over 10,000 square feet of gross floor area.
6	Furniture, Automobile and Boat Sales and Appliance Sales	One space plus one additional space for each 25,000 square feet of gross floor area.
7	Hospitals, Rest Homes, Nursing Homes, etc.	One space plus one additional space for each 100,000 square feet of gross floor area.
8	Bowling Alleys	One space for each structure over 20,000 square feet of gross floor area.
9	Manufacturing and Research, Experimental or Testing Stations	One space for each 50,000 square feet of gross floor area.

Subd. 13. Minimum Mobile Home Park Requirements.

A. Minimum Density and Area Requirements. Lot areas and density as hereby established shall be considered the minimum requirements within a mobile home park.

1. Minimum area requirements for a mobile home park shall be five (5) acres and shall not be less than one hundred fifty (150) feet in width.

2. A minimum of five hundred (500) square feet per mobile home shall be provided for definable play areas and open space within the mobile home park. Such areas of open space and/or play area shall not be areas included within any setback nor shall they include any areas of less than twenty (20) feet in length or width.

B. Lot Coverage and Setback Requirements.

1. Maximum lot coverage for mobile home parks shall be twenty-five (25) percent.

2. Minimum distance between units shall be not less than twenty (20) feet, or the sum of the heights of the two units, whichever is greater; the point of measurement being a straight line between the closest point of the units being measured.

3. When a mobile home park abuts a single family residential use area, there shall be a minimum setback on that side of fifty (50) feet between the street right-of-way line and any mobile home park use; which setback area shall act

as a buffer zone and shall be landscaped according to a landscape plan, to be submitted at the time of application. Such plan shall show the type of planting material, size and planting schedule.

C. General Internal Park Development Requirements.

1. There shall be a minimum front yard setback from the mobile home unit to the street line of fifteen (15) feet.

2. The mobile home stand shall be at such elevation, distance and angle relative to the street and driveway that placement and removal of the mobile home with a car, tow truck, or other customary moving equipment is practical. The mobile home stand shall have a longitudinal grade of less than four (4) percent and transverse crown or grade to provide adequate surface drainage. The stand shall be compacted and surfaced with a material which will prevent the growth of vegetation while supporting the maximum anticipated loads during all seasons.

3. The entire mobile home park shall be landscaped (excluding hard surfaced areas) and there shall be planted, or otherwise located, one shade tree placed and maintained near each unit pad.

D. Parking and Street Requirements.

1. Parking.

a. Off-street parking areas shall be surfaced in accordance with the street surface standards below.

b. All required off-street parking space shall be located not further than two hundred (200) feet from the unit or units for which they are designed.

c. A minimum of one and one-fourth (1.25) spaces of parking must be provided for each mobile home unit space provided within the park. The one unit space for occupant use must be within the distance from the unit established above. The remaining spaces equivalent to one-fourth (.25) spaces must be in the group compounds at an appropriate location within the park.

2. Streets.

a. Streets shall be of sufficient width so as to permit ease of access to the mobile home parking stands and the placement and removal of mobile homes without causing damage to or otherwise jeopardizing the safety of any occupants or mobile homes in the park.

b. Streets shall have a minimum width so as to permit two (2) moving lanes of traffic. Minimum lane width shall be fifteen (15) feet.

c. Public access to a mobile home park shall be so designed as to permit a minimum number of ingress and egress points to control traffic movement, and to keep undesirable traffic out of the park.

d. Streets shall be graded to their full width to provide proper grades for pavement and sidewalks to have adequate surface drainage to the storm sewer system. The improvements shall extend continuously from existing improved streets to provide access to each lot and to provide connections to existing or future streets at the boundaries of the mobile home park.

e. Streets and parking areas shall be surfaced for all weather travel with not less than four (4) inches of crushed stone, gravel, or other suitable base material topped with not less than one and one-half (1.5) inches of bituminous concrete, or four (4) inches Portland cement concrete. The surface shall be limited at the edge by a Portland cement curb not less than four (4) inches high.

E. Storage. Enclosed storage lockers when provided, shall be located either adjacent to the mobile home in a mobile home park or at such other place in the park as to be convenient to the unit for which it is provided. Storage of large items such as boats, boat trailers, etc., shall not be accomplished at the site of the mobile home unit, but rather shall be provided in a separate screened area of the park.

F. Registration.

1. It shall be the duty of the operator of the mobile home park to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

a. The name and address of each mobile home occupant.

b. The name and address of the owner of each mobile home.

c. The make, model, year and license and number of each mobile home.

d. The state, territory or county issuing such license.

e. The date of arrival and departure of each mobile home.

f. The number and type of motor vehicles of residents in the park.

2. The park shall keep the register available for inspection at all times by City and County law enforcement officers, public health officials and other public

offices whose duty necessitates acquisition of the information contained in the register. The register record for each occupant and/or mobile home registered shall not be destroyed until after a period of three (3) years following the date of departure of the registrant from the park.

G. Maintenance. The operator of any mobile home park, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment, in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with said operator, for the violation of any provisions of these regulations to which said operator is subject.

Source: Ordinance No. 130
Effective Date: 12-24-1971

H. Relocated Structures. Before any house or other structure is moved onto a vacant lot, a Special Use Permit must be secured. The Planning Department shall submit a report concerning type of building and improvements that should be made if the building is relocated. The applicant shall submit photographs taken from two (2) or more angles of the structure to be moved and photos of the lot on which the structure is to be located together with adjacent lots and structures. Notice shall be given by mail at least ten (10) days prior to the meeting, to the property owners within one hundred fifty (150) feet of the subject property. The Planning Commission shall report to the Council whether the structure will be compatible with other development in the area. If the Council concurs with the decision of the Planning Commission that a structure would depreciate the area into which it is to be moved, the Council may withhold issuance of a permit for such relocation. These requirements do not apply to construction sheds or other temporary structures to be located on a lot for twelve (12) months or less.

Source: Ordinance No. 8, 3rd Series
Effective Date: 04-17-1980

Subd. 14. Residential Structures.

Unless located in a Mobile Home Park or a Travel Trailer Park, all residential dwelling structures for living purposes shall be at least 24' wide and at least 30' long and placed on a permanent foundation.

Source: Ordinance No. 26, 3rd Series
Effective Date: 07-29-1982

SECTION 11.21. REGULATION OF DISH-TYPE SATELLITE SIGNAL-RECEIVING ANTENNAS.

Subd. 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

1. "Dish-Type Satellite Signal-Receiving Antennas", also referred to as "Earth Stations" or "Ground Stations" - One, or a combination of two or more of the following:

   a. A signal-receiving device (antenna, dish antenna, or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources.

   b. A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.

   c. A coaxial cable the purpose of which is to carry or transmit said signals to a receiver.

2. "Receiver" - A television set or radio receiver.

3. "Dish" - That part of a satellite signal receiving antenna characteristically shaped like a saucer or dish.

4. "Grounding Rod" - A metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.

Subd. 2. Permit Required.

It is unlawful for any person to construct an earth station without a permit, nor shall construction commence before a permit is issued in accordance with Subdivision 3 of this Section.

Subd. 3. Application for Permit.

The owner, or occupant with written permission from the owner, of any lot, premises or parcel of land within the City who desires to construct an earth station on said lot, premises or land parcel, must first obtain a permit to do so from the Zoning Administrator. The Zoning Administrator shall issue such permit, provided the applicant submits a written application upon forms provided and approved by the Planning Department, along with a plot plan of the lot, premises or land parcel attached, showing the exact location and dimensions of the proposed earth station and underground

wiring; a description of the kind of earth station proposed; the exact location and dimensions of all buildings or structures; showing the elevations of the proposed earth station upon completion. The applicant shall submit with each application the sum of $15.00 which represents the permit fee. The permit fee shall cover the costs of processing the application.

Subd. 4. Location of Earth Station.

A. Ground-Mounted.

1. No earth station shall be constructed in any front or side yard, but, shall be constructed to the rear of the residence or main structure.

2. No earth station, including its concrete base slab or other substructure, shall be constructed less than eight (8) feet from any property line or easement.

3. Wiring between an earth station and a receiver shall be placed at least eight (8) inches beneath the surface of the ground.

4. Such earth station shall be designed to withstand a wind force of seventy-five (75) miles per hour without the use of supporting guy wires.

5. An earth station must be bonded to a grounding rod.

6. No earth station shall be constructed upon the roof top of any garage, residential dwelling, church, school, apartment building, hospital or any other commercial building or structure.

7. All earth stations and the construction and installation thereof shall conform to Nation Electric Safety Code regulations.

Source: Ordinance No. 54, 3rd Series
Effective Date: 04-24-1985

(Sections 11.22 through 11.24, inclusive, reserved for future expansion.)

SECTION 11.25. SEXUALLY-ORIENTED BUSINESSES; ZONING.

Subd. 1. Location Prohibitions.

Sexually-oriented businesses shall be prohibited in all of the City's zoning districts, except in the Commercial District, as defined and regulated in this Chapter, where such businesses shall be permitted, provided the conditions specified in the City Code are met.

A. In the Commercial District, in which sexually oriented businesses are permitted uses, the following conditions shall be met prior to a sexually oriented business being allowed.

1. Sexually oriented businesses shall be at least one thousand five hundred (1,500) feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest point of the actual business premises of any other sexually oriented business.

2. Sexually oriented businesses shall be located no less than one thousand five hundred (1,500) feet from:

a. Any zoned residential area, whether R-1 or R-2 as defined in this Chapter.

b. Mobile home parks.

c. Places of worship.

d. Governmental buildings.

e. City/public parks, recreational areas, or open spaces.

f. Schools, public or private.

g. Licensed family day-care homes, licensed group family day-care homes, licenses child-care or day-care centers, licensed Development Achievement Centers, and senior housing complexes.

h. On-sale liquor establishments.

B. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest boundary of the residential use district or the boundary of a mobile home park, or to the nearest property line of the premises used as a school, place of worship, governmental building, City/public park, recreational area or open space, licensed family day-care home, licensed group family day-care home, licensed child-care or day-care center, licensed Developmental Achievement Center, senior housing complex, or on-sale liquor establishment.

C. The operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or in the increase of the floor area of any sexually oriented business in any building, structure, or portion thereof is prohibited.

Subd. 2. Sign Restrictions.

In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following sign regulations shall apply to all sexually oriented businesses in the City in lieu of the provisions of Section 11.02, Items 39 through 46 and Section 11.20, Subd. 11 of this Chapter.

A. All signs shall be flat wall signs. No signs shall be freestanding, located on the roof or contain any flashing lights, moving elements or electronically or mechanically changing messages. No sign shall contain any message or image which identifies changing messages which identifies Specified Sexual Activities or Specified Anatomical Areas, as defined in Section 6.33 of Chapter 6. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this Section shall contain only (1) the name of the sexually oriented business and/or (2) the specific type of sexually oriented business conducted on the licensed premises.

B. Temporary signage shall not be permitted in connection with any sexually oriented business.

C. No signs shall be placed in any window.

D. A one-square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

Source: Ordinance No. 148, 3rd Series
Effective Date: 10-24-2003

(CODIFIER'S NOTE: Also See Chapter 6, Section 6.33, Sexually Oriented Businesses)
(Sections 11.26 through 11.29, inclusive, reserved for future expansion.)

SECTION 11.30. NON-CONFORMING USES.

Subd. 1. General.

A non-conforming use may be continued subject to the following limitations and such further regulations as the Council may require for securing the purposes of this Chapter.

A. A non-conforming use of land shall not be enlarged or increased in land area, nor shall such non-conforming use be moved to any part of the parcel of land upon which the same was not conducted prior to the adoption of this Chapter.

B. A non-conforming use shall not be changed unless changed to a conforming or more conforming use; such use shall not thereafter be changed to a non-conforming use.

C. If any existing non-conforming use of building or land is discontinued for a period of one (1) year it cannot be resumed.

D. No building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than fifty (50) percent of its value shall be restored except in conformity with the regulations of this Chapter.

E. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve livability of the unit provided the number of dwelling units in the building is not increased.

Subd. 2. Necessary Restoration.

Nothing in this Chapter shall prevent the strengthening or restoration of a wall or structural member in a building maintained for non-conforming use when such action is taken pursuant to a building permit as hereinafter provided.

Source: Ordinance No. 130
Effective Date: 12-24-1971

(Sections 11.31 through 11.39, inclusive, reserved for future expansion.)

SECTION 11.40. CONDITIONAL USE PERMITS.

Subd. 1. Conditional Use Permits.

Conditional Use Permits may be issued for any of the following:

A. Any of the uses or purposes for which such permits are required or permitted by the provisions of this Chapter.

B. Public utility or public service uses or public building in a district when found to be necessary for the public health, safety, convenience or welfare.

C. To classify as a conforming use any institutional use existing in any district at the time of the establishment of such district.

D. To permit the location of any of the following uses in a district from which they are excluded by the provisions of this Chapter: library, community center, church, hospital, fairgrounds, any institution of any educational, philanthropic or charitable nature, cemetery, mausoleum or any other place for the disposal of the human dead.

Subd. 2. Application.

Application for the issuance of a Conditional Use Permit shall be made to the Planning Commission. Any proceedings to classify certain uses as conforming uses as provided in this Section may be initiated either by application or by the Council or by the Planning Commission. The Planning Commission may hold such hearings on the proposal to issue a Conditional Use Permit as it may consider necessary; but at least one public hearing shall be held on any application for a use permit for the establishment of any use listed in Subdivision 1, Subparagraph D of this Section. The Planning Commission shall make a report to the Council upon any application for conditional permit and shall recommend to the Council whatever action it deems advisable; but it shall not recommend the granting of a permit unless it finds that the establishment, maintenance, or conducting of the use for which a use permit is sought will not under the circumstances of the particular use be detrimental:

A. To the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use, or

B. To the public welfare or injurious to property or improvements in the neighborhood.

C. It may designate conditions and require guarantees in the granting of use permits in the manner provided in Section 11.60 for the granting of adjustments. Upon receipt of the report of the Planning Commission, the Council may hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant a use permit. If the Council finds that the conditions exist which are necessary under this Section before the Planning Commission may recommend the granting of a use permit, the Council may grant the use permit and it may attach to the permit such conditions and guarantees as are provided for in Section 11.60 for the granting of adjustments.

Subd. 3. Conformance.

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith.

Source: Ordinance No. 130
Effective Date: 12-24-1971

CODIFIER'S NOTE: If a mobile home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant. (See MN Stat., §327C.095.)

(Sections 11.41 through 11.49, inclusive, reserved for future expansion.)

SECTION 11.50. THE ADMINISTRATIVE OFFICIAL.

The Mayor is hereby authorized and directed to enforce all the provisions of this Chapter. He/She may delegate the enforcement of this Chapter to any administrative official of the City, and supporting staff if deemed necessary, who shall be directly under the control of the Mayor and shall be known as the Zoning Administrator or Zoning Enforcement Officer. The Zoning Administrator shall perform the following duties:

Subd. 1. Examine Applications.

Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms with the provisions of this Chapter.

Subd. 2. Non-conforming Uses

Keep a record of all non-conforming uses.

Subd. 3. Inspections.

Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this Chapter. In regard to performance standards the Zoning Administrator may require the services of a testing laboratory to determine compliance. The cost of employing said laboratory shall be paid for by the owner if a violation of this Chapter is established, otherwise by the City.

Subd. 4. Notifications.

Notify, in writing, any person responsible for violating a provision of this Chapter, indicating the nature of the violation and ordering the action necessary to correct it.

Subd. 5. Orders.

Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done; or take any action authorized by this Chapter to insure compliance with or to prevent violation of its provisions.

Subd. 6. Record Keeping.

Maintain permanent and current records of the Zoning Chapter as provided in Section 11.03, Subdivision 2, including all maps, amendments, conditional use, and variations.

Subd. 7. File Maintenance.

Maintain a current file of all permits, all certificates, and all copies of notices of violation, discontinuance, or removal for such time as necessary to insure a continuous compliance with the provisions of this Chapter and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.

Subd. 8. Technical Assistance.

Provide technical assistance to the Council and Planning Commission.

Source: Ordinance No. 130
Effective Date: 12-24-1971

(Sections 11.51 through 11.59, inclusive, reserved for future expansion.)

SECTION 11.60. ADJUSTMENTS AND VARIANCES.

Subd. 1. Purpose.

The Council, in each case as hereinafter provided shall have the power to grant adjustments in and exceptions to any of the provisions of this Chapter to the extent of the following and no further:

A. To vary or modify the strict application of any of the regulations or provisions contained in this Chapter in cases in which there are practical difficulties or unnecessary hardships in the way of such strict application.

B. To permit the extension of a district where the boundary line thereof divides a lot in one ownership at the time of the passage of this Chapter.

Subd. 2. Application.

Application for any adjustment permissible under the provisions of this Section shall be made to the Zoning Administrator in the form of a written application for a permit to use the property or premises as set forth in the application. An application for an

adjustment shall be accompanied by payment of a fee in such amount as may be set by motion or resolution of the Council from time to time in addition to the regular building fee, if any. Upon receipt of any application, such officer shall set a time and place for a public hearing before the Planning Commission on such application. At least ten days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.

Subd. 3. Review and Decision.

The Commission shall thereupon make its decision upon the application and report its recommendation to the Council within ten days after such hearing. In recommending granting any adjustment or variance under the provisions of this Section, the Planning Commission shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation involved; and in recommending denial the Commission shall specify the reasons why the variance cannot be adjusted to meet the purposes of this Chapter as to light, air, public health, safety, comfort, convenience, or general welfare.

Subd. 4. Issuance.

No permit shall be issued under the provisions of this Section unless and until it is ordered by the Council. In reporting its decision to the Council, the Planning Commission shall report its findings with respect thereto and all facts in connection therewith and shall specifically and fully set forth the conditions upon which variance is recommended. Upon receipt of such report, the Council shall by resolution either accept or reject the same and shall either grant or deny the application for permit according to its own determination of the question involved. In all cases in which adjustments or variances are granted under the provisions of this Section, the Council shall require such evidence and guarantees as it deems necessary to insure compliance with the conditions designated in connection therewith.

Subd. 5. Conditions for Issuance.

The Planning Commission shall not recommend the granting of any application and the Council shall not grant any application unless they find the following facts:

A. That there are special circumstances or conditions affecting the land, building or use referred to in the application.

B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights.

C. That the granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

D. At the hearing, the applicant shall present a statement and evidence in such form as the Planning Commission may require, to show these facts.

Subd. 6. Form of Action Taken and Record Thereof.

The Planning Commission and the Council shall provide for a record of their proceedings, which shall include the minutes of their meetings, their findings, and the action taken on each matter heard by them, including final recommendation, decision and order.

Subd. 7. Appeals From the Decision of the Council.

Any person or persons, or any board, taxpayer, department or bureau of the City aggrieved by any decision of the Council may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by MN Stat. Chapter 462.361.

CODIFIER'S NOTE: If a mobile home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant. (See MN Stat. §327C.095.)

SECTION 11.61. AMENDMENT TO THE ZONING CHAPTER.

Subd. 1. Purpose.

The Council may, on its own motion, or on request of the Planning Commission, or on petition or appeal of the affected property owners:

A. Transfer land, or a portion thereof, from the district in which it is situated into another district, by amendment to this Chapter.

B. Change any of the regulations of this Chapter as to the use or platting of land in any district, or as to the restrictions upon buildings or structures herein, by amendment to this Chapter

Subd. 2. Procedure.

A. An application for amendment shall be filed with the City Clerk-Treasurer in duplicate, accompanied by a fee as determined by the Council. The City Clerk-Treasurer shall forward one (1) copy to the Planning Commission. The Planning Commission may transmit its recommendations on the application to the City within thirty (30) days.

B. The Planning Commission may transmit its recommendations on the application to the Council within thirty (30) days .

C. The Planning Commission shall give notice of the time and place of the public hearing. Notice shall be given not more than thirty (30) days nor less than ten (10) days in advance of the hearings, by publishing a notice thereof at least once in a newspaper published in the City by notifying the owner or owners of the property under consideration, and by notifying by mail at least ten (10) days prior to the meeting the property owners within three hundred (300) feet of the subject property. The current City Assessor's tax records shall be deemed sufficient for the location or certification of ownership of said properties.

D. The Council, upon receiving reports of the Planning Commission, and without further public hearing, may vote upon the adoption of any proposed amendment or it may refer it back to the Planning Commission and/or Board for further consideration. If no recommendation is transmitted by the Planning Commission within thirty (30) days after the hearing, the Council may take action without awaiting such modifications. In considering such recommendations, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire City, and for the uses to which the property affected is being devoted at the time; and no change shall be recommended unless it is required for the public good. The amendment shall be effective only if three-fourths (3/4) of all the members of the Council concur in its passage.

Subd. 3. The Petition:

A. Shall give the name or names of the petitioner or petitioners, and the petition shall be signed by each of them. The address of each petitioner shall be given.

B. Shall specifically describe the area proposed to be rezoned, and give the names and addresses of all owners of property owned by each.

C. Shall state the present zone classification of the area and the proposed zone classification.

D. Shall state the present use of each separately owned tract within the area, and the intended use of any tract of land therein, if the petitioners, or any of them, have particular use presently in mind.

E. Shall show how the rezoning will fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire City.

F. Shall be accompanied by three (3) copies of a map showing the property to be rezoned, and the present zoning of the surrounding area for at least a distance of

five hundred (500) feet, including the street pattern of such area. The map scale shall be one hundred (100) feet to the inch.

Source: Ordinance No. 130
Effective Date: 12-24-1971

SECTION 11.62. ANNEXATIONS.

No annexation petition shall be considered unless and until a hearing has also been petitioned for placing the annexed territory in a zoning district or districts. No building permits shall be issued in annexed territory until such hearing has been held and the territory assigned a zoning district or districts.

Source: Ordinance No. 14, 3rd Series
Effective Date: 05-30-1984

(Sections 11.63 through 11.98, inclusive, reserved for future expansion.)

SECTION 11.99. VIOLATION A MISDEMEANOR.

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

Source: Ordinance No. 130
Effective Date: 12-24-1971

CHAPTER 12

LAND USE REGULATION (PLATTING)

SECTION 12.01. GENERAL PROVISIONS.

Subd. 1. Purpose.

This Chapter is hereby adopted in order to safeguard the best interest of the City and to assist the subdivider in coordinating his/her developing plans with the aims and purposes of the City at large. It is the purpose of these regulations to prevent the unregulated, piecemeal development of new subdivisions which in turn might cause undesirable and costly traffic circulation patterns and disrupt the unified scheme of community development as set forth in the approved Comprehensive Plan for the City. In order to accomplish the foregoing, all subdivision of land hereafter submitted for approval to the Planning Commission shall, in all respects, fully comply with the regulations set forth in this Chapter. It is the intent of this Chapter to provide regulations and requirements for the platting of land within the City pursuant to the authority stipulated in MN Stat. Chapters 429, 471 and 505, which regulations the Council deems necessary for the health, safety and general welfare of all residents.

Subd. 2. Jurisdiction.

The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the City and the unincorporated area within two miles of its limits; provided that where a municipality lies less than four miles from the limits of the City, these regulations shall apply only to a line equidistant from the City and said municipality; and provided further, that the governing body or bodies of unincorporated area adjacent to the City have not adopted ordinances for the regulation of subdivision of land or platting. Copies of resolutions approving subdivision plats of land outside the City but not subject to its subdivision regulations shall be filed with the clerk of the town in which the land is situated.

Subd. 3. Application of Chapter.

Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this Chapter, shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or building development, whether immediate or future, including the resubdivision or replatting of land or lots. Division of land in tracts larger than two and one-half (2.5) acres in area and 150 feet in width shall be exempt from the requirements of this Chapter.

Subd. 4. Approvals Necessary for Acceptance of Subdivision Plats.

Before any plat shall be recorded or be of any validity, it shall have been approved by the Planning Commission and by the Council, as having fulfilled the requirements of this Chapter.

SECTION 12.02. DEFINITIONS.

For the purpose of this Chapter, certain words and terms are hereby defined as follows:

1. Alley - is a public right-of-way which affords a secondary means of access to abutting property.

2. Block - is an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

3. Boulevard - is the portion of the street right-of-way between the curb line and property line.

4. Comprehensive Plan - refers to the group of maps, charts and texts that make up the Comprehensive long-range plan of the City.

5. Design Standards - are the specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

6. Easement - is a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

7. Final Plat - is a drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by the County for purposes of recording.

8. Lot - is a portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

9. Owner - includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of any of them.

10. Parks and Playgrounds - are public lands and open spaces in the City dedicated or reserved for recreation purposes.

11. Percentage of Grade - on street center line means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred feet of horizontal distance.

12. Pedestrian Way - is a public or private right-of-way across a block or within a block to provide access, to be used by pedestrians and which may be used for the installation of utility lines.

13. Planning Commission - is the Planning Commission of the City.

14. Preliminary Plat - is a tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

15. Protective Covenants - are contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

16. Road - See “Street”.

17. Sketch Plan - is an informal plan describing the proposed subdivision development drawn prior to the preliminary plat application.

18. Street - is a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, lane, place or however otherwise designated.

19. Street, Thoroughfare or Arterial Street - are those used primarily for heavy traffic, and serving as an arterial trafficway between the various districts of the community, as shown on the Comprehensive Plan.

20. Street, Collectors - are those that carry traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts, as show on the Comprehensive Plan.

21. Street, Minor - are those which are used primarily for access to abutting properties.

22. Street, Marginal Access - are minor streets which are parallel and adjacent to thoroughfares and highways, and which provide access to abutting properties and protection from through traffic.

23. Street, Cul-de-sac - is a minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

24. Street Width - is the shortest distance between lines of lots delineating the street right-of-way.

25. Subdivision - is a described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than two and one-half acres in area, or one hundred fifty (150) feet in width, for the purpose of transfer of ownership or building development, or, if dedication of a public street is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

26. Subdivider - is any person commencing proceedings under this Chapter to effect a subdivision of land.

27. Tangent - is a straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

28. Vertical Curve - is the surface curvature on a street, road or highway center line located between lines of different percentage of grade.

SECTION 12.03. PROCEDURE.

Subd. 1. Sketch Plan.

A. Prior to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit for review with the Planning Commission staff, subdivision sketch plans which shall contain the following information: tract boundaries, north point, description of nature and purpose of tract, streets and alleys on and adjacent to the tract, significant topographical and physical features, proposed general street layout, and proposed general lot layout.

B. Such sketch plans will be considered as submitted for informal and confidential discussion between the subdivider and the Commission staff. Submission of a subdivision sketch plan shall not constitute formal filing of a plat with the Commission.

C. As far as may be practical on the basis of a sketch plan, the Commission staff will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this Chapter and will discuss possible plan modifications necessary to ensure conformance.

Subd. 2. Procedure for Conditional Approval of Preliminary Plat.

A. The tracing and eight dark line prints of the preliminary plat and the original and eight dark copies of sheets of data accompany the plat shall be filed with the Zoning Administrator, along with written application for conditional approval, who shall issue a receipt for same, dated as of the date of filing. If satisfactory, the original and two copies of everything shall be retained for the Planning Commis-

sion, and one copy given to the City Clerk-Treasurer for the Council and five copies to the City Utility and Street Departments.

B. Under each of the following conditions, one additional copy of everything shall be required in filing and shall be transmitted to the official referred to, with advice to the effect that any recommendations for consideration by the Planning Commission in acting on the plat should be received within 14 days after the date of filing.

1. When land to be subdivided lies outside the corporate limits of the City, the County Highway Engineer of the appropriate county.

2. When such land abuts on a State Trunk Highway, the State Highway Commissioner.

C. Not less than five (5) days before the date of a meeting of the Planning Commission at which a preliminary plat is scheduled for consideration, the Secretary will so notify by United States mail the subdivider and the record owners of the property immediately adjoining the land within the plat. The Planning Commission shall act on such plat and give due consideration to any recommendations received.

D. Before approval of a preliminary plat by the Planning Commission, the Zoning Administrator and Council shall have reviewed and forwarded recommendations, when necessary, which take into consideration the prospective character of the development of the area included in the plat and of the surrounding territory, and shall be satisfied that the prospective development will conform to the land use plan, or other portions of the Comprehensive Plan, density of population, kinds, widths, and orientation of streets and kinds, locations and sizes of other public areas and facilities.

E. It is the intent of these regulations that the subdivider file for conditional approval of the preliminary plat with the Zoning Administrator, and that the action regarding such conditional approval shall issue from the Planning Commission following consideration at a meeting for which the preliminary plat is scheduled. Such consideration shall involve recommendations, if any, from the Council and the City Engineer, and other concerned officials where necessary.

F. If the Planning Commission fails to act within a reasonable time as fixed by the Council, the Zoning Administrator shall advise the subdivider of any and all recommendations received with respect thereto and shall negotiate with him/her to the end that such of these recommendations as may be consistent with these regulations shall be satisfied. Thereupon the preliminary plat shall be re-submitted to the Planning Commission for action before the final plat is made.

G. Conditional approval of a preliminary plat shall not constitute approval of the final plat (subdivision plat). Rather, it shall be deemed to be an expression of

approval to the layout submitted on the preliminary plat, and act as an authorization and guide to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of six (6) months, unless an extension is granted by the Council. The subdivider may file a final plat limited to such portion of the preliminary plat which he/she proposes to record and develop at the time, provided that such portion must conform to all requirements of this Chapter.

Subd. 3. Procedure for Approval of Final Plat.

A. After review and approval of the preliminary plat by the Council and Planning Commission, the subdivider shall cause the subdivision to be surveyed, staked and monumented by a qualified land surveyor or registered engineer. Where permanent monuments are not already in place, monuments consisting of iron rods at least one inch and a quarter (1.25) in diameter and 48 inches in length and encased in concrete at least four inches in diameter shall be set at the intersections of all boundary angles of the subdivision and at the intersections of street, alley and boundary lines, all flush with the finished grade except that those within a roadway may be set at sub-grade level. Iron rods of one inch and a quarter (1.25) or more in diameter and 24 inches or more in length, set flush with the finished grade, shall be located at the boundary angles, intersections and points of curvature of all lot, street, alley and boundary lines, where permanent monuments are not set. Offset markers will be permitted in situations prohibiting the placing of markers in the locations described above. The exact location of all markers shall be shown on the final plat, together with accurate internal angles, bearing and distances.

B. The plat may then be prepared in final form, and both survey and plat shall conform to the preliminary plat as approved, including the required modifications.

C. The final plat shall be drawn in accordance with the Statutes of the State of Minnesota.

D. The Zoning Administrator shall check the final plat and accompanying data for conformity with the law, the City Code, and with these regulations, and any conditions or modifications of the preliminary plat, and shall also check the plat and survey for required accuracy, before accepting the plat for filing. A traverse of the boundaries of the plat and of all lots and blocks, when computed from field measurements of the ground, must close within a limit of error of one foot to 5,000 feet of perimeter. The final plat and at least four dark line prints thereof, with required data accompanying each, shall be filed with the Zoning Administrator within six months after the date of approval of the preliminary plat.

E. Approval of the Planning Commission. The final plat shall be submitted, along with written application for approval of the final plat, at least ten (10) days prior to a Commission meeting at which consideration is requested. Approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten (10)

days after the meeting of the Planning Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Commission.

F. Approval of the Council.

After a review and approval of the final plat by the Planning Commission, such final plat, together with the recommendations of the Planning Commission shall be submitted to the Council for approval. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, alleys, easements or other public ways, and parks, or other open spaces dedicated to public purposes. Failure of the Council to act on the application within sixty (60) days shall be deemed as approval. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person or persons applying for such approval.

SECTION 12.04. DATA REQUIRED FOR PRELIMINARY AND FINAL PLATS.

Subd. 1. Preliminary Plat Requirements.

A preliminary plat shall be clearly and legibly drawn on tracing paper, tracing cloth or mylar of good quality and all prints or copies thereof shall be clear and legible. The size of the tracing should be the same as the size used for the final plat. It shall be at a scale of 100 feet to one inch or more, showing clearly all details thereof. A preliminary plat, together with such accompanying sheets of data and other materials as are needed for the purpose, shall show the following:

A. The proposed names of subdivision, north arrow, scale and date of preparation.

B. Names and addresses of the owners, lien holders, subdivider, surveyor, or engineer, and designer.

C. Sufficient legal description to define the location of and boundary of the land to be divided and the location and names of all existing subdivisions, streets (and street widths) and unsubdivided property and ownership adjoining the proposed subdivision, between it and the nearest existing streets and for a distance of not less than 600 feet beyond the boundaries of the subdivision, zoning on and adjacent to the subdivision. Also: photographs, when required by the Planning Commission, identifying camera location, directions of views, and key numbers.

D. A sketch, approximately to scale, clearly indicating an ultimate street and block layout for the entire ownership, when only a portion is proposed to be subdivided first.

E. Locations, names, widths, and existing and proposed finished grades of all streets, highways, major thoroughfares and alleys.

F. Locations and width of all easements and rights-of-way for drainage, sewerage, public utilities or railroads, or for other purposes.

G. Lot lines with approximate dimensions.

H. Radii of all curves.

I. Designation of areas which - before improvements - are subject to inundation or stream water overflow, and location of all water courses and drainage ditches.

J. Proposed uses of the lots and parcels, proposed building setback (front yard) lines, minimum areas for building sites, other area requirements and bulk and height requirements or restrictions, and an outline of proposed deed restrictions.

K. Designation of proposed public streets, alleys, rights-of-way, easements and other areas proposed to be dedicated for public purposes, and their purposes.

L. Locations and types of existing structures, locations of large trees and other ground cover, and contours at an interval of one foot or at an interval of not more than five feet if the latter is acceptable to the Reviewing Authority.

M. The name and address of the person to whom notice of the Planning Commission's hearing on the plat shall be sent.

N. Accompanying the preliminary plat shall be a plan showing grades and profiles of the streets and the approximate location of utilities.

O. A certificate by the Utility Departments or other designated authority that all utilities, improvements have been discussed and preliminary planning made.

Subd. 2. Final Plat Requirements.

A. The final plat shall be drawn in accordance with the provisions of the State of Minnesota Statutes.

B. The final plat shall show:

1. The name of the subdivision, scale, north arrow, and date.

2. Names and addresses of owners, lien holders, subdivider, surveyor, and designer. Names of record owners of adjoining unplatted land.

3. Primary control points or descriptions and “ties” to such control points, to which all dimensions, angles, bearing, elevations and similar data shall be referred.

Source: Ordinance No. 131
Effective Date: 12-24-1971

4. Subdivision boundary lines, side and center lines of streets and other rights-of-way, lines of easements, lot lines, lines of all other sites and of all reservations; with accurate dimensions, bearings, or deflection angles, and radii, arcs and central angles of all curves.

Source: Ordinance No. 24, 3rd Series
Effective Date: 06-18-1981

5. Location and description of monuments. At least three iron or stone monuments shall be placed at some corners in the ground in such a way that the lines between the monument form two or more base lines from which to make future surveys.

6. Names and widths of streets and other rights-of-way.

7. Widths and purposes of easements.

8. Block numbers, consecutive.

9. Lot numbers, consecutive, starting with the figure “1” in each block.

10. Dedication of any sites, in addition to streets, alleys, rights-of-way and easements, and the purpose.

11. Owners’ statement offering streets, alleys, rights-of-way, and public areas for dedication to the public.

12. Certificate of title or abstract showing ownership.

13. Other data, certificates, affidavits, and endorsement that may be required by the Planning Commission or the Council.

14. Accompanying the final plat shall be restrictive covenants, if any, in form for recording. On the plat shall be written an instrument of dedication which shall be signed and acknowledged by the owner of the land.

15. Accompanying the final plat shall be a plan showing grades and profiles of streets and the approximate location of utilities and a certificate by the Utility

Departments that all utilities improvements have been discussed and preliminary planning made.

C. The surveyor shall certify under oath on the plat that it is a correct representation of the survey, that all distances are correctly shown on the plat, that the monuments for guidance of future surveys have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that the topography of the land is correctly shown in the plat.

D. No plan will be approved for a subdivision which covers an area subject to periodic flooding or which contains extremely poor drainage facilities and which would make adequate drainage of the streets and lots impossible, unless the subdivider agrees to make improvements which will, in the opinion of the Council, make the area completely safe for occupancy and provide adequate street and lot drainage.

E. Certification showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full.

SECTION 12.05. DESIGN STANDARDS.

Subd. 1. General.

A. General design, street pattern, street widths, proposed private and public area, facilities and uses, and proposed density of population, shall conform to applicable plans, ordinances and regulations, including: major thoroughfare plan, land use plan, other portions of the Comprehensive Plan, building and zoning regulations, and other applicable regulations, and the official map adopted by reference.

B. Valuable topographic and scenic features and ground cover shall be preserved and retained to the maximum possible extent. Drainage shall be provided for in the subdivision by adequate storm drains or by maintenance of natural drainage channels.

Subd. 2. Streets and Thoroughfares.

A. The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

B. Where such is not shown in the Comprehensive Plan, the arrangement of existing principal streets in a subdivision shall either:

1. Provide for the continuation of appropriate projection of existing principal streets in surrounding areas; or

2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission and Council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

C. The street pattern shall be adequate to serve platted lots when developed and shall not be such as to obstruct the development of adjoining unsubdivided lands in conformity with the Comprehensive Plan and platting, existing or proposed, as shown on the official map.

D. Minor streets shall be so laid out that their use by through traffic will be discouraged.

E. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and which will afford separation of through and local traffic.

F. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

G. Street jogs with center line offsets of less than one hundred (100) feet shall be prohibited.

H. Streets shall intersect or intercept each other at right angles with variation of not more than ten degrees permitted when considered necessary.

I. Names of streets which are extensions of existing streets shall be the same. No street names shall be used which will duplicate or be confused with the names of separate existing streets. Street names shall be subject to the approval of the Council.

J. At residential street corners the street lines (property lines) at each corner shall be connected by a circular arc having a radius of not less than ten (10) feet, and the curb line (or lines designating outside edges of roadways) shall be connected by a circular arc having a radius of not less than fifteen (15) feet. At business and indus-

trial corners, these lines shall be similarly connected by arcs or their equivalent chords according to standards approved by the Council.

K. Half-width streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Where an existing, half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full width street may be required.

L. Streets for residential development shall not be less than 80 feet in width. Dead-end streets shall be less than 500 feet in length wherever possible. The roadway diameter at the dead-end shall be not less than 100 feet and the street property line diameter not less than 120 feet.

M. Unlimited access to railroads, trunk highway, and major thoroughfares including all limited-access trafficways, shall be discouraged. Local service streets parallel to any such facility or the rearing of lots upon its right-of-way line with intersections at infrequent intervals only, four or less per mile, and at regular spacing shall be encouraged.

N. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown on the Comprehensive Plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classifications as follows:

Class	Desireable	Acceptable
Principal Arterial Highway	104 Feet	80 Feet
Minor Arterial Highway		80 Feet
Collector Streets	80 Feet	80 Feet
Local Streets		80 Feet
Marg. Serv. Acc. Roads		50 Feet
Alley		20 Feet
Pedestrian Way		10 Feet

Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths of rights-of-way, these shall be required.

Subd. 3. Alleys.

A. Alleys shall be required at the rears of lots to be used for single or multiple dwellings, commercial, industrial and institutional purposes, lots fronting trunk highways and major thoroughfares and lots needing a second means of access.

B. Alleys shall be not less than twenty (20) feet in width.

C. Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the Planning Commission.

Subd. 4. Easements.

A. An easement for utilities, at least ten (10) feet width, shall be provided along each side of a side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way, at least twenty (20) feet in width. If necessary for the extension of main water or sewer lines, electrical transformer pads or similar utilities, easements of greater width may be required along lot lines or across lots.

B. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the Council, by Ordinance, upon the recommendation of the Planning Commission.

C. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

D. Where a subdivision is traversed by a water course, drainage way, channel or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water course shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the Planning Commission.

E. Easements intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

Subd. 5. Blocks.

A. The lengths, widths and shapes of blocks, and lots within blocks, shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the principal and all required accessory uses.

2. Zoning requirements as to lot sizes and dimensions, and provisions regulating off-street parking and loading spaces.

3. Needs for convenient access, circulation, control and safety of street traffic.

4. Limitations and opportunities of topography.

B. Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs. Where residential blocks with lots deeper than two hundred (200) feet are proposed, a reservation for a future street through the middle of the block, longitudinally, may be required.

C. Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.

Subd. 6. Lots.

A. The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. Lot dimensions shall conform to the requirements of the Zoning Chapter and:

1. No residential lot shall be less than 9,000 square feet in area, 75 feet in widths at the building line, and 120 feet in depth. A corner lot shall have extra width for setback of a building adequately from both streets. No residential lot not served by public sewer and public water supply shall be less than 22,000 square feet in area, provided that a lot served by public water supply but not public sewer may have a minimum area of 11,000 square feet.

2. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Ordinarily side lines of lots shall be at right angles to straight street lines and radial to curved street lines.

D. Double frontage, and reverse frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome special disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

E. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street for purposes of fire fighting, utilities and other public and quasi-public services.

Subd. 7. Public Sites and Open Spaces.

A. In subdividing land or resubdividing an existing plat, due consideration shall be given to the subdivider and by the Planning Commission upon review, to the dedication or reservation of suitable sites for schools, parks, playgrounds, conservation areas, or other public or semi-public recreational areas or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the Comprehensive Plan. Whenever the Comprehensive Plan shows the proposed park or recreational area partially or completely within a proposed subdivision, the preliminary and final plats of said subdivision shall show the proposed site as reserved and the City shall have one year from the date of the approval of the preliminary plat by the Planning Commission in which to purchase said land or to initiate condemnation proceedings with respect thereto.

B. Where deemed essential by the Planning Commission, upon consideration of the particular type of development proposed in the subdivision, and especially in larger scale neighborhood unit developments not anticipated in the Comprehensive Plan, the Planning Commission may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such a development for schools, parks and other neighborhood purposes. When so desired, the Planning Commission may recommend, and the Council rule, that as an alternative, the subdivider may at his/her option contribute an equivalent amount in cash. Payments received under such option shall be placed in a special park fund by the City and used only for the acquisition of land for parks and playgrounds in accordance with M.S. (1965) 462.358, Subdivision 2.

SECTION 12.06. VARIANCES.

Subd. 1. General.

A. The Council may grant a variance from these regulations following a finding that all of the following conditions exist:

1. There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his/her land.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

B. In making this finding the Council shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. In granting a variance as herein provided the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

Subd. 2. Special Application Requirements.

A. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission and the Council, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Planning Commission and Council in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

B. In all cases where applications for variance are submitted for conditional approval along with the preliminary plat, the action on such conditional approval shall issue from the Council. Where a petition for variance is not involved, the Planning Commission may grant conditional approval subject to procedural requirements stated in this Chapter.

SECTION 12.07. REGISTERED LAND SURVEYS AND CONVEYANCE BY METES AND BOUNDS.

Subd. 1. Registered Land Surveys.

It is the intention of this Chapter that all registered land surveys in the City should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this Chapter for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes and relationship of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless such approvals have been obtained from the Planning Commission, and Council in accordance with standards set forth in this Chapter,

building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.

Subd. 2. Conveyance by Metes and Bounds.

No conveyance of two or more parcels in which the land conveyed is described by metes and bounds shall be made or recorded if the parcels described in the conveyance are less than two and one-half (2.5) acres in area and one hundred fifty (150) feet in width unless such parcel was a separate parcel of record at the effective date of this Chapter. Building permits will be withheld for buildings on tracts which have been subdivided and conveyed by this method and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

SECTION 12.08. COMPLIANCE.

Subd. 1. Conditions for Recording Plat.

No plat of any subdivision shall be entitled to record in the County Register of Deeds Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Chapter.

Subd. 2. Building Permits.

No building permits will be issued by the City for the construction of any building structure or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this Chapter have been fully complied with.

SECTION 12.09. VIOLATIONS AND PENALTY.

Subd. 1. Sale of Lots From Unrecorded Plats.

It is unlawful to sell, trade or otherwise convey or offer to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or portion of the City unless said plan, plat or replat shall have first been recorded in the Office of the Register of Deeds of the County.

Subd. 2. Receiving or Recording Unapproved Plats.

It is unlawful to receive or record in any public office any plans, plats or replats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Chapter, unless

the same shall bear thereon, by endorsement or otherwise, the approval of the Planning Commission and the Council.

Source: Ordinance No. 131
Effective Date: 12-24-1971

SECTION 12.10. ENGINEERING STANDARDS.

Subd. 1. Monuments; Survey Monuments.

All subdivision boundary corners, block corners, street intersection corners and points of tangency and curvature shall be marked with survey monuments consisting of galvanized pipes with caps minimum 1 inch deformed steel rods 36 inches in length. Lot corners shall be marked with survey monuments consisting of iron pipes, iron rods, or other metal markers. All U.S., State, County and other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

Subd. 2. Streets.

A. Street Grading. Streets shall be graded in accordance with a plan approved by the Superintendent of Public Works. The grading shall include the full street width of the right-of-way and shall provide a boulevard section, in addition to the minimum pavement width.

B. Street Pavement. The design of street pavement for all streets covered by this regulation shall be in accordance with Standard Specifications for Highway Construction, M.H.D. and the State of Minnesota Highway Department Road Design Manual No. 5-291 for flexible pavements. The designed thickness of the surfacing elements shall be in accordance with the flexible pavement design standard for road classifications as follows:

Classification	Pavement Design Axle Load
Thoroughfare Collector Streets and Commercial or Industrial Service Streets	9 Ton Minimum
Minor Streets and Marginal Access Streets	7 Ton Minimum

C. Gravel Surface. Streets that at the present time will only have a gravel surface shall be designed so the base and sub-base requirements as set forth in the Standards for Highway Construction, M.H.D. and the State of Minnesota Highway Department Road Design Manual No. 5-291 for flexible pavements are met. In all

cases at least the top six (6) inches of the street surface shall be of Class 5 gravel or a material as approved by the Superintendent of Public Works.

D. Curb and Gutter. Concrete curb and gutter shall be in accordance with Standard Specifications for Highway Design No. 8618, or M.H.D. Design No. S-518.

E. Sidewalks and Pedestrian Ways. All required walks shall be concrete four (4) inches thick placed on a four (4) inch gravel base. Grades shall be as approved by the Superintendent of Public Works. Sidewalks shall be placed in the public right-of-way with a minimum 6 feet width.

Subd. 3. Public Utilities.

A. Water Main. A minimum water main of six-inch cast iron pipe or other approved pipe shall be required. Mains over six inches in size may be required.

B. Sanitary Sewer. Unless otherwise required, a sanitary sewer of 8 inch pipe, ASTM schedule 30.34 MDOT Regulation, shall be installed as the minimum size placed at grades approved by the Superintendent of Public Works. Mains over 8 inches in size may be required. Service wyes shall be four (4) inches.

C. House Services. Each house service shall be run from the main to the property line where a cap or plug shall be placed until the service is extended to the structure. A one inch Type K copper water service, corporation cock, curb box and stop, and four inch pipe, ASTM schedule 30.34 MDOT Regulation, sewer service shall be the minimum requirements and may be placed in a common trench.

Subd. 4. Sanitation.

A. Where lots cannot be connected with a public sewerage system, provisions must be made for sanitary sewerage facilities, consisting of individual disposal devices for each lot. This does not mean that the installation of individual disposal devices shall be at the expense of the subdivider.

B. Any subdivision or lot not provided with off-site sewer facilities may be subject to soil and percolation tests being made to determine whether or not the lot size proposed will meet minimum standards of health and sanitation requested by the Planning Commission due to limitation of soils as shown on existing soils maps. The lot area and topography must be such that it will accommodate an adequate disposal system or systems to serve the residence for the estimated unsewered years as determined by the Council. Such tests shall be made at the expense of the subdivider, and a sketch map shall be submitted to identify the specific locations where tests were made.

C. All proposed sewage disposal systems shall comply with the regulations and recommended standards of the Minnesota Department of Health, the Minnesota Pollution Control Agency, and the City.

Subd. 5. House Plumbing.

When an individual sewage system is used and the septic tank is placed on a side other than that from which the public sewer line would connect, it shall be required that a capped sewage disposal line shall be extended from the point of ground entrance of basement or house to a point there (3) feet beyond and to the side from which the future sewer connection will be made. Inside the basement the elbow shall be set up to be easily reversed for connection to the capped line.

Subd. 6. Drainage.

All surface and underground drainage systems shall be installed to adequately remove all natural drainage that accumulates on the developed property. All such systems shall be in conformity to the City drainage plans and all piping shall provide complete removal and a permanent solution for the removal of drainage water.

Subd. 7. Boulevard Trees.

Tree varieties shall comply with Boulevards Tree Policy.

Subd. 8. Utilities Location.

Every lot in a subdivision shall be capable of being served by all utilities, and where required easements shall be provided with approval by the Utility Superintendents. All utility distribution lines shall be installed within public right-of-way or within property designated easements. When practicable and feasible, all utilities shall be placed underground and shall be completed prior to street surfacing. All utility lines for telephone, cable TV, and electrical services shall be placed in rear line easements when carried on overhead poles.

Subd. 9. Inspection.

All required improvements shall be inspected by the Superintendent of Public Works. Construction at the expense of the subdivider.

SECTION 12.11. REQUIRED IMPROVEMENTS AND FINANCIAL ARRANGEMENTS.

Subd. 1. Improvements Required.

Prior to the approval of a plat by the Council, the subdivider shall have agreed, in the manner set forth below, to install, in conformity with approved construction plans and

in conformity with all applicable standards and City Code provisions, the following improvements on the site:

A. Survey Monuments. All subdivision boundary corners, block and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of State law. All U.S., State, County and other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position unless a relocation is approved by the controlling agency.

B. Streets. The street shall be graded to the grades and dimensions shown on plans and profiles approved by the Council and shall include the following improvements:

1. Suitable drainage structures, culverts, storm sewers, ditches and related installations such as designated lots for runoff basins, shall be provided to ensure adequate drainage of all points along the streets.

2. All streets shall be surfaced with stabilized gravel to a surface width as approved by the Superintendent of Public Works.

3. When a street within a subdivision has 35 percent or more of the lots sold and buildings are constructed and occupied by individual property owners, the property owners may petition the City to pave their streets and install curb and gutter. The costs for paving and installing curb and gutter shall be borne by special tax assessments against those property owners. Petition for street paving may occur if less than 35 percent of the subdivision is occupied when the subdivision developer(s) are also in favor of such street improvements by special tax assessments.

C. Storm Drainage. The construction of a storm drainage system shall conform to specification by the Superintendent of Public Works. When storm sewers are not installed in a subdivision, areas within the subdivision shall be designated as runoff basins to ensure adequate drainage of all points along a street.

D. Water Mains. Where mains from a public water system are available, as determined by the Council, the subdivider shall be required to install water mains with a connection for each lot.

E. Public Sanitary Sewer. In all cases where trunk line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers in the plan and convert the same to such trunk line sewer. If such facilities are not available but it is expected that they will be within five (5) years, the Council may require that such sewers, together with all necessary laterals extending from the main sewer to the street curb shall be installed and capped for future connection as services become available. In the event the subdivider may also install on-site dis-

posal units provided they are so located as to permit easy and the least expensive connection to the sewer when it becomes available and usable. When such on-site units are installed, the subdivider shall provide underground plumbing to extend three (3) feet beyond the footing, which plumbing shall be plugged. The area around the stack shall be scored so that the septic tank line can be disconnected and connection can be made with the public sanitary sewer system.

Subd. 2. Payment for Installation of Improvements.

The required improvements as listed elsewhere are to be furnished and installed at the sole expense of the subdivider with provision available for financing by the City under the Special Assessment Policy. Further, if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit of such lands, to be assessed against the same. In such a situation the subdivider will be required only to pay for such portion of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

Subd. 3. Agreement Providing for the Installation of Improvements.

Prior to the installation of any required improvements and prior to approval of the plat, the subdivider shall enter into a contract in writing with the City requiring the subdivider to furnish and construct said improvements at his/her sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provision for supervision of details of construction by the engineer and shall grant to the engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the City in the completion of part or all of the improvements covered thereby prior to acceptance of the plat. The time for completion of the work and the several parts thereof shall be determined by the Council upon recommendation of the Superintendent of Public Works after consultation with the subdivider. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the plat and subdivision.

Subd. 4. Construction Plans and Inspection.

A. Construction plans for the required improvements conforming in all respects with the standards and provisions of the City Code shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota, and said plans shall contain his/her certificate. Such plans together with the quantities of construction items shall be submitted to the engineer for his/her approval and for his/her estimate of the total costs of the required improvement. Upon approval, such plans shall become a part of the required contract. The tracings of the plans approved by the engineer plus two (2) prints shall be furnished to the City to be filed as a public record.

B. All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the Superintendent of Public Works at the subdivider's expense, and acceptance by the Council shall be subject to the engineer's certificate of compliance with the contract.

Subd. 5. Trunk Facilities.

Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required must be constructed. Additional cost is to be borne by the benefitting properties. The assessments are to be determined accordingly by the Council.

Subd. 6. Alternate Installation and Incomplete Improvements.

It is hereby the announced policy of the Council that full and complete utility systems be installed in all needed areas as soon as is practicable and feasible. Accordingly, the City shall order in such improvements as soon as it is practicable after final approval of a subdivision with installation within the subdivision of such improvements as may be determined to be necessary. In the event of small subdivisions or in subdivisions in which development may proceed slowly, or in other events in which the construction of surfaced streets, sidewalks, utility lines, or other improvements is clearly not feasible, immediately following the approval of the plat, the Council may elect to commence assessment proceedings, or otherwise move to finance and install improvements when the subdivision is developed to the point of warranting the improvements. Such improvements are required in order to provide greater assurance of public health, assure reliability of water supply, provide for economy of installation, provide more effective fire fighting through hydrants, and otherwise protect the public health, safety, convenience and general welfare.

Source: Ordinance No. 30, 3rd Series
Effective Date: 06-23-1983

(Sections 12.12 through 12.98, inclusive, reserved for future expansion.)

SECTION 12.99. VIOLATION A MISDEMEANOR.

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

Source: Ordinance No. 131
Effective Date: 12-24-1971

CHAPTER 13

LOCAL LODGING TAX

SECTION 13.01. DEFINITIONS.

Unless otherwise expressly stated, wherever used in this Chapter, the following words shall have the meanings given to them by the Section.

Subd. 1. "Lodging"

The furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of thirty (30) days or more.

Subd. 2. "Operator"

A person who provides lodging to others, or any officer, agent, or employee of such person.

Source: Ordinance No. 145, 3rd Series
Effective Date: 06-21-2002

SECTION 13.02. IMPOSITION OF TAX.

There is hereby imposed a tax of three percent (3%) on the gross receipts from the furnishing for consideration of lodging.

SECTION 13.03. COLLECTION.

Each operator shall collect the tax imposed by this Chapter at the time the rent is paid. The tax collections shall be held in trust by the operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging.

SECTION 13.04. PAYMENT AND RETURNS.

Subd. 1. Time and Form of Payment.

The taxes imposed by this Chapter shall be paid by the operator to the City no later than fifteen (15) days after the end of the month in which the taxes were collected. At the time of payment the operator shall submit a return upon such forms and containing such information as the City may require. The return shall contain the following minimum information:

A. The total amount of rent collected for lodging during the period covered by the return.

B. The amount of tax required to be collected and due for the period.

C. The signature of the person filing the return or that of his/her agent duly authorized in writing.

D. The period covered by the return.

E. The amount of uncollectible rental charges subject to the lodging tax.

Subd. 2. Offset of Taxes.

The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this Chapter previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

SECTION 13.05. EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES & DEMANDS.

After a return is filed, the City shall examine it and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City within ten (10) days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the City within ten (10) days after determination of such refund.

SECTION 13.06. REFUNDS.

Any person may apply to the City for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year after such tax was paid, or within one year from the filing of the return, whichever period is the longer. The City shall examine the claim and make and file written findings thereon denying such person at the address stated upon the return. If such claim is allowed in whole or in part, the City shall credit the amount of the allowance against any taxes due under this Chapter from the claimant and the balance of said allowance, if any, shall be paid by the City to the claimant.

SECTION 13.07. FAILURE TO FILE A RETURN.

If any operator required by this Chapter to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false or fraudulent return within five (5) days of receipt of such written notice and shall at the same time pay the tax due on the basis thereof. If such person shall fail to file such return or corrected return, the

City shall make a return or corrected return for such person from such knowledge and information as the City can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. If any portion of a tax imposed by this Chapter, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City Attorney may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the costs and disbursements of any action. Upon a showing of good cause, the City may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this Chapter, provided that interest during such period of extension shall be added to the taxes due at the rate of ten percent (10%) per annum.

SECTION 13.08. PENALTIES.

If any tax imposed by this Chapter is not paid within the time therein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to ten percent (10%) of the amount remaining unpaid. The amount of tax not timely paid, together with any penalty provided by this Section, shall bear interest at the rate of ten percent (10%) per annum from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as a part thereof.

SECTION 13.09. VIOLATIONS.

It is unlawful for any person to willfully fail to make a return required by this Chapter, or to fail to pay the tax after written demand for payment, or to fail to remit the taxes collected or any penalty or interest imposed by this Chapter after written demand for such payment, or to refuse to permit the City to examine books, records and papers under his or her control, or to willfully make any incomplete, false or fraudulent return.

SECTION 13.10. USE OF PROCEEDS.

Ninety-five percent (95%) of the proceeds obtained from the collection of taxes pursuant to this Chapter shall be used in accordance with MN Stat. §469.190 as the same may be amended from time to time to fund a local convention or tourism bureau for the purpose of marketing and promoting the City as a tourist or convention center.

SECTION 13.11. APPEALS.

Any operator aggrieved by any notice, order or determination made by the City under this Chapter may file a petition for review of such notice, order or determination detailing the operator's reasons for contesting the notice, order or determination. The petition shall contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice or determination. The petition for review shall be filed with

the City Administrator within ten (10) days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review. Upon receipt of the petition the City Administrator, or the Administrator's designee, shall set a date for a hearing and give the petitioner at least five (5) days' prior written notice of the date, time and place of the hearing. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. The petitioner may be represented by counsel of petitioner's choosing at petitioner's own expense. The hearing shall be conducted by the City Administrator or the Administrator's designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice or determination for which review is sought. The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable sections of this Chapter and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order or determination made by the City. Any decision rendered by the City Administrator pursuant to this Section may be appealed to the Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City Administrator within ten (10) days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as is practical. The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse, or affirm the decision of the City Administrator or his/her designee upon the same standards as set forth in this Section.

Source: Ordinance No. 113, 3rd Series
Effective Date: 11-06-1997

(Sections 13.12 through 13.98, inclusive, reserved for future expansion.)

SECTION 13.99. VIOLATION A MISDEMEANOR.

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

Source: Ordinance No. 113, 3rd Series
Effective Date: 11-06-1997

CHAPTER 14

RIGHT OF WAY MANAGEMENT

SECTION 14.01. FINDINGS AND PURPOSE.

Subd. 1. Health and Safety.

To provide for the health, safety and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the right-of-way, the City strives to keep its right-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the right-of-way, a primary cause for the early and excessive deterioration of its right-of-way is frequent excavation.

A. Right of way obstruction is a source of frustration for merchants, business owners and the general population which must avoid these obstructions or change travel or shopping plans because of them and has a detrimental effect on commerce. Persons whose equipment is within the right-of-way are the primary cause of these frequent obstructions.

B. The City holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. It also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property.

C. As a result of all these intrusions in the right-of-way, it is necessary for the City to establish a system of documenting what is placed in the rights-of-way within its municipal boundaries and to serve as a central record agency to inform its citizens and the other public entities of the facilities that have been placed in the right-of-way that is held in trust for them.

Subd. 2. Permits and Administration.

In response to the foregoing facts, the City hereby enacts this new Chapter of the City Code relating to right-of-way permits and administration, together with making necessary revisions to other Code provisions. This Chapter imposes reasonable regulations on providers of electricity, light, heat, cooling energy, liquid and gaseous fuels, information and communication service, sewer and water lines and connection to them to the public that place and maintain facilities or 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 Chapter, persons disturb-

ing and obstructing the rights-of-way will bear a fair share of the financial responsibility for their integrity. Finally, this Chapter provides for recovery of out-of-pocket and projected costs from persons using the public right-of-way and adopts the standards developed by the Public Utilities Commission (PUC) on maximum restoration requirements 7819.9900 through 7819.9950.

Subd. 3. Reimbursement Payments.

In addition to the foregoing recovery of costs and regulation of use, the Council determines that there is an existing and legitimate State and local public policy, which authorizes the City to require payments as reimbursement or return to the public for the use value of the public rights-of-way from those who obtain revenue or profits from such use. This reimbursement is provided for and defined in this Section as the "user fee". This fee does not apply to the repair, replacement or reconstruction of an existing facility. Telecommunication facilities are exempt from a user fee by State Statute.

Subd. 4. Public Interest and Welfare.

The Council finds that it is in the public interest to provide for the payment of a user fee by all persons who use and occupy the right-of-way to pay compensation apportioned equally among them all for the value and benefit of using such right-of-way.

Subd. 5. Legislative Power.

In these situations, the Council desires to exercise its lawful police power and common law authority, and all statutory authority which is available to it, including but not limited to, the powers conferred on it under MN Stat. §§216B.36, 222.37, 237.16 and 300.03, (410.09) and 412.211, Subdivisions 6, 23 and 32. The Council finds and determines that the public interest will be best protected by adopting this Chapter conferring the right to occupy the right-of-way in return for payment as authorized by law.

Subd. 6. Not a Rate.

The Council finds and determines that the user fee authorized by this Chapter is not and is not intended to be a rate as that term is defined in MN Stat. §216B.02, Subd. 5. Such user fee is not a fee for a service that is provided to the customer or a person using the right-of-way, but is rather a fee paid for the right of that person to operate in the public right-of-way, and to maintain the equipment of a utility in the right-of-way in the City.

Subd. 7. Notification Requirement.

Registrants shall be notified of any proposed ordinance changes prior to adoption by the Council.

SECTION 14.02. DEFINITIONS.

The following definitions apply in this Chapter. References hereafter to "sections" are, unless otherwise specified, references to sections in this Chapter. Defined terms remain defined terms whether or not capitalized.

1. "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

2. "City" means the City of Wadena. For purposes of this Chapter, City means its elected officials, officers, employees and agents.

3. "Construction Performance Bond" means any of the following forms of security provided at permittee's option:

a. Individual Project Bond.

b. Cash Deposit.

c. Security of a form listed or approved under MN. Stat. §15.73, Subd. 3.

d. Letter of Credit, in a form acceptable to the City.

e. Self-Insurance, in a form acceptable to the City.

f. 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.

4. "Management Costs" means the actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying Right-of-Way Permit Applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking Right-of-Way Permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; MN Stat.§§ 237.162 or 237.163 or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to Section 14.91 of this Chapter.

5. "Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

6. “Degradation Cost” 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 proposed PUC Rules, Parts 7819.9900 to 7819.9950.

7. “Degradation Fee” means the estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation costs.

8. “Department” means the Street Department of the City.

9. “Department Inspector” means any person authorized by the Public Works Director to carry out inspections related to the provisions of this Chapter.

10. “Public Works Director/s” means the Head of the Street Department of the City, or his or her designee.

11. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

12. “Emergency” means a condition that (a) poses a clear and immediate danger to life or health, or of a significant loss of property; or (b) requires immediate repair or replacement of facilities in order to restore service to a customer.

13. “Equipment” means any tangible asset to install, repair, or maintain Facilities in any Right-of-Way.

14. “Excavate” means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

15. “Excavation Permit” means the permit which, pursuant to this Chapter, must be obtained before a person may excavate in a right-of-way. An Excavation Permit allows the holder to excavate that part of the right-of-way described in such permit.

16. “Excavation Permit Fee” means money paid to the City by an applicant to cover the costs as provided in Section 14.16 of this Chapter.

17. “Facility or Facilities” means any tangible asset in the right-of-way required to provide utility service.

18. “Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to

make decisions for that registrant regarding all matters within the scope of this Chapter.

19. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way for a period in excess of eight (8) consecutive hours.

20. “Obstruction Permit” means the permit which, pursuant to this Chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way for a period of eight (8) hours by placing equipment described therein on the right-of-way for the duration specified in Section 14.16 of this Chapter.

21. “Obstruction Permit Fee” means money paid to the City by a permittee to cover the costs as provided herein.

22. “Patch or Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (a) the compaction of the subbase and aggregate base, and (b) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when two month periods have elapsed.

23. “Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with asphalt, concrete, aggregate or gravel.

24. “Permittee” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this Chapter.

25. “Person” means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

26. “Probation” means the status of a person that has not complied with the conditions of this Chapter.

27. “Probationary Period” means one year from the date that a person has been notified in writing that they have been put on probation.

28. “Registrant” means any person who (a) has or seeks to have its equipment or facilities located in any right-of-way, or (b) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities in the right-of-way, or (c) engages in the practice of excavation in the right-of-way.

29. “Restore or Restoration” means the process by which a right-of-way is returned to the same condition and life expectancy that existed before excavation.

30. “Restoration Cost” means the amount of money paid to the City by a permittee to achieve the level of restoration according to Plates 1 to 13 of PUC Rules.

31. “Right-of-Way” means the area on, below, or above a public roadway, highway, street, alley, park land, boulevard or other City owned land cartway, bicycle lane and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City. A Right-of-Way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

32. “Right-of-Way Permit” means either the Excavation Permit or the Obstruction Permit, or both, depending on the context, required by this Chapter.

33. “Service” or “Utility Service” includes but is not limited to (a) those services provided by a public utility as defined in MN Stat. §216B.02, Subds. 4 and 6; (b) telecommunications, pipeline, community antenna television, fire and alarm communications, water, sewer, electricity, light, heat, cooling energy, or power services; (c) the services provided by a corporation organized for the purposes set forth in MN. Stat. §300.03; (d) the services provided by a district heating or cooling system; and (e) cable communications systems as defined in MN Stat.Chapter 238; and (e) Telecommunication Right-of-Way User as defined herein.

34. “Supplementary Application” means an application made to excavate or obstruct more of the right-of-way than permitted, or to extend a permit that had already been issued.

35. “Telecommunication Rights-of-Way User” means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or intended to be used for transporting telecommunication or other voice or data information. For purposes of this Chapter, a cable communication system defined and regulated under MN Stat. Chapter 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in MN Stat. §216B.02, a municipality, a municipal gas or power agency organized under MN Stat. Chapters 453 and 453A, or a cooperative electric association organized under MN Stat. Chapter 308A, are not telecommunications right-of-way uses for purposes of this Chapter.

36. “Unusable Facilities” means facilities in the right-of-way which have remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next twelve (12) months or a potential purchaser or user of the facilities.

SECTION 14.03. ADMINISTRATION.

The Public Works Director is the principal City official responsible for the administration of the right-of-way permits, and the ordinances related thereto. The Public Works Director may delegate any or all of the duties hereunder.

SECTION 14.04. 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 recommendation 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.

SECTION 14.05. FRANCHISE; FRANCHISE SUPREMACY.

The City may, in addition to the requirements of this Chapter, require any person which has or seeks to have equipment located in any right-of-way to obtain a franchise to the full extent permitted by law now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provision of this Chapter whether granted prior or subsequent to enactment of this Chapter, shall control and supersede the conflicting terms of this Chapter. All other terms of this Chapter shall be fully applicable to all persons whether franchised or not.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.06 through 14.09, inclusive, reserved for future expansion.)

SECTION 14.10. REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

Subd. 1. Registration.

Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the Planning and Zoning Director. Registration will consist of providing application information and paying a registration fee.

Subd. 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 Planning and Zoning Director.

Subd. 3. Exceptions.

Nothing herein shall be construed to repeal or amend the provisions of a City ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this Chapter. However, nothing herein relieves a person from complying with the provisions of MN Stat. Chapter 216D, “One Call Law”.

SECTION 14.11. REGISTRATION INFORMATION.

Subd. 1. Information Required.

The information provided to the Planning and Zoning Director at the time of registration shall include, but not be limited to:

A. Each registrant’s name, Gopher One-Call registration certificate number, 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 available 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 licensed to do business in the State of Minnesota, 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 permittes, and (b) placement and use of facilities in the right-of-way by 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. 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;

4. Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;

5. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Chapter.

D. The City may require a copy of the actual insurance policies.

E. If the person is a corporation, a copy of the certificate required to be filed under MN Stat. §300.06 as recorded and certified to by the Secretary of State.

F. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable State or Federal agency, where the person is lawfully required to have such certificate from said Commission or other State or Federal agency.

Subd. 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 fifteen (15) days following the date on which the registrant has knowledge of any change.

SECTION 14.12. REPORTING OBLIGATIONS.

Subd. 1. Operations.

Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the Planning

and Zoning Director. Such plan shall be submitted using a format designated by the City and shall contain the information to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

A. The plan shall include, but not be limited to, the following information:

1. The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this Section, a "next-year project"); and

2. To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this Section, a "five-year project").

B. The term "project" in this Section shall include both next-year projects and five-year projects.

C. By January 1 of each year the City will have available for inspection in the Planning and Zoning Director's office a composite list of all projects of which the City has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

D. 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.

Subd. 2. 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.

SECTION 14.13. PERMIT REQUIREMENT.

Subd. 1. Permit Required.

Except as otherwise provided in this Chapter, no person may obstruct or excavate any right-of-way without first having obtained the appropriate Right-of-Way Permit from the Planning and Zoning Director 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. A construction/improvement/upgrade project requiring excavation within the right-of-way

requires an excavation permit. Multiple excavations limited to one City block are considered one project and require an excavation permit except major reconstruction or extensions by a franchised utility will be issued under one permit provided all locations are included on one permit and project is completed within sixty (60) days of issuing permit. Each permit application will require the mapping data per Section 14.70.

B. Obstruction Permit. An Obstruction Permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way for periods in excess of eight (8) consecutive hours by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. Proper traffic and pedestrian control devices shall be in place at all times during the obstruction. An Obstruction Permit is not required if a person already possesses a valid Excavation Permit for the same project. Failure to obtain an obstruction permit prior to the obstruction will require an after-the-fact obstruction permit fee plus payment of a delay permit. Applicants obtaining Wadena or Ottertail County Highway or Minnesota Department of Transportation excavation permits for facilities in their rights-of-way must obtain a City obstruction permit and submit a copy of the plans with mapping data for recording purposes per Section 14.70.

C. Permit Waiver. In the event of a major catastrophe or emergency declared by the City requiring the restoration of services that are within the right-of-way, the requirement for permits and permit fees may be waived by the City at its discretion. After restoration of the service has been completed, an updated mapping plan per Section 14.70 must be submitted to the City within sixty (60) days.

Subd. 2. Permit Extensions.

No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person (a) 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.

Subd. 3. Permit Display.

Permits issued under this Chapter shall be conspicuously displayed or other wise available at all times at the indicated work site and shall be available for inspection by the Public Works Director.

SECTION 14.14. PERMIT APPLICATIONS.

Application for a permit is made to the Planning and Zoning Director. Right-of-Way Permit Applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions.

Subd. 1. Registration.

Registration with the Planning and Zoning Director pursuant to this Chapter.

Subd. 2. Submission.

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.

Subd. 3. Payment.

Payment of money due the City for:

A. Permit fees, estimated restoration costs and other management costs;

B. Prior obstructions or excavations;

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.

D. Franchise or user fees, if applicable.

Subd. 4. Disputed Amounts.

Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

Subd. 5. Additional Facilities.

When an excavation permit is requested for purposes of installing additional facilities, and the posting of a Construction Performance Bond for the additional facilities is insufficient, the posting of an additional or larger Construction Performance Bond for the additional facilities may be required.

SECTION 14.15. ISSUANCE OF PERMIT; CONDITIONS.

Subd. 1. Permit Issuance.

If the applicant has satisfied the requirements of this Chapter, the Planning and Zoning Director shall issue a permit.

Subd. 2. 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.

SECTION 14.16. PERMIT FEES.

Subd. 1. Excavation Permit Fee.

The Excavation Permit Fee shall be established by the Council in an amount sufficient to recover the following costs:

A. The City management costs;

B. Degradations costs, if applicable.

C. City mapping cost.

Subd. 2. Obstruction Permit Fee.

The Obstruction Permit Fee shall be established by the Council and shall be in an amount sufficient to recover the City management costs associated with recording and inspecting the right-of-way obstructions.

Subd. 3. Payment of Permit Fees.

No Excavation Permit or Obstruction Permit shall be issued without payment of Excavation or Obstruction Permit Fees.

Subd. 4. Non-Refundable.

Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 14.63 are not refundable.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.17 through 14.29, inclusive, reserved for future expansion.)

SECTION 14.30. RIGHT-OF-WAY PATCHING AND RESTORATION.

Subd. 1. Timing.

The work to be done under the Excavation Permit, and the patching or restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 14.42.

Subd. 2. Patch and Restoration.

Permittee shall patch its own work. The City may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

A. City Restoration. If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, during the thirty (30) months following such restoration, the pavement settles due to permittee's improper back-filling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work.

B. 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 an amount determined by the City to be sufficient to cover the cost of restoration. If, within twenty-four (24) months after completion of the restoration of the right-of-way, the Public Works Director determines that the right-of-way has been properly restored, the surety on the Construction Performance Bond shall be released.

C. Turf Establishment Specification. Disturbed area in City right-of-way shall be re-seeded in accordance with MNDOT std. specification for construction section 2575, and the following:

1. Topsoil shall be placed to a minimum depth of 4" and hand-raked.

2. Seed mixture MNDOT No. 65A, or equal, shall be applied at 100 pounds per acre.

3. Fertilizer analysis 18-18-18 shall be applied at 700 pounds per acre.

4. Erodible areas shall be covered with wood fiber blanket or Type I mulch.

5. The season of planting is April 1 to June 1, July 20 to September 20, or dormant seeding between October 20 and November 15.

6. All water for seed maintenance shall be furnished and applied by the Contractor.

7. The Contractor shall continue watering and maintenance as necessary until a good stand of grass is established and accepted by the City.

Subd. 3. Standards.

The permittee shall perform patching or restoration according to the standards and with the materials specified by the Public Works Director. The Public Works Director shall have the authority to prescribe the manner and extent of the restoration, and may

do so in written procedures of general application or on a case-by-case basis. The Public Works Director in exercising this authority shall comply with PUC Standards for Right-of-Way Restoration and shall further be guided by the following considerations:

A. The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way;

B. The traffic volume carried by the right-of-way, the character of the neighborhood surrounding the right-of-way;

C. The pre-excavation condition of the right-of-way, the remaining life-expectancy of the right-of-way affected by the excavation;

D. Whether the relative cost of the method of restoration to the Permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and,

E. The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Subd. 4. Guarantees.

By choosing to restore the right-of-way itself, the Permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During this 24-month period it shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary, using the method required by the Public Works Director. Said work shall be completed within ten (10) working days of the receipt of the notice from the Public Works Director, 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 Section 14.42.

Subd. 5. Obligation.

Construction triggers an obligation of the right-of-way user that the right-of-way restoration be completed according to the conditions set forth in this Chapter. The right-of-way user also assumes responsibility for “as built” drawings and for repairing facilities or structures, including right-of-way that was damaged during facility installation. The obligation is limited to one year for plantings and turf establishment.

Subd. 6. Failure to Restore.

If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all Restoration required by the Public Works Director, the Public Works Director at its

option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the Construction Performance Bond.

Subd. 7. Degradation Cost in Lieu of Restoration.

In lieu of right-of-way restoration, a right-of-way user may elect to pay a Degradation Fee. However, the right-of-way user shall remain responsible for patching and the Degradation Fee shall not include the cost to accomplish these responsibilities.

Subd. 8. Site Restoration and Cleanup.

As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the locations of such excavation shall be accomplished at the expense of the permittee. From time to time, as may be ordered by the Public Works Director, and in any event immediately after completion of said work, the permittee shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work. This may be done by the City and the cost thereof charged to the permittee. Whenever it may be necessary for the permittee to excavate through any landscaped area, said area shall be re-established in a like manner after the excavation has been backfilled as required. All construction and maintenance work shall be done in a manner designed to leave the area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any existing trees or shrubs without first obtaining the consent of the Public Works Director.

Subd. 9. Winter Construction.

Between October first and May first, all trenches must be backfilled with gravel and tamped in six inch lifts or layers to at least one foot back of curb line. The upper 2 inches of the trench shall be composed of asphaltic cold materials to be kept at grade at all times between October first and May first and then restored to permanent resurfacing by June first.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.31 through 14.39, inclusive, reserved for future expansion.)

(Pages 17 through 28, inclusive, are reserved for future expansion)

SECTION 14.40. JOINT APPLICATIONS.

Subd. 1. Joint Application.

Registrants may jointly apply for permits to excavate or obstruct the Right-of-Way at the same place and time.

Subd. 2. With City Initiated Projects.

Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee.

Subd. 3. 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. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

SECTION 14.41. SUPPLEMENTARY APPLICATIONS.

Subd. 1. Limitation on Area.

A Right-of-Way Permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (1) make application for a permit extension and pay any additional fees required thereby, and (2) be granted a new permit or permit extension.

Subd. 2. 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 done before the permit end date.

SECTION 14.42. OTHER OBLIGATIONS.

Compliance With Other Laws. Obtaining a Right-of-Way Permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall

comply with all requirements of local, state and federal laws, including MN Stat. §216D.01-09 ("One Call Excavation Notice System"). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 1. Prohibited Work.

Except in an emergency, and with the approval of the Public Works Director, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 2. Interference With Right-of-Way.

A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

SECTION 14.43. DENIAL OF PERMIT.

The City may deny a permit for failure to meet the requirements and conditions of this Chapter or if the City determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Subd. 1. Mandatory Denial.

Except in an emergency, no right-of-way will be granted:

A. To any person required by Section 14.10 to be registered who has not done so;

B. To any person required by Section 14.12 to file an annual report but has failed to do so;

C. To any person who has failed within the past two (2) years to comply, or is presently not in full compliance with the requirements of this Chapter;

D. To any person as to whom there exists grounds for the revocation of a permit under Section 14.63, or

E. If, in the discretion of the City, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The City in exercising this discretion, shall be guided by

the safety and convenience of ordinary travel of the public over the right-of-way, and by considerations relating to the public health, safety and welfare.

Subd. 2. Permissive Denial.

The City may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The City in its discretion, may consider one or more of the following factors:

A. The extent to which right-of-way space where the permit is sought is available;

B. The competing demands for the particular space in the right-of-way;

C. The availability of other locations in the right-of-way or in other rights-of-way that affect location of equipment in the right-of-way;

D. The applicability of City Code provions or other regulations of the right-of-way that affect location of equipment in the right-of-way;

E. The degree of compliance of the applicant with the terms and conditions of its franchise, this Chapter, and other applicable City Code provisions and regulations;

F. The degree of disruption to surrounding neighborhoods and businesses that will result from the use of that part of the right-of-way;

G. The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction; and

H. The balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.

Subd. 3. Discretionary Issuance.

Notwithstanding the provisions of Subdivision 1 of this Section, the City may issue a permit in any case where the permit is necessary (a) to prevent substantial economic hardship to a customer of the permit applicant; or (b) to allow such customer to materially improve its utility service, or (c) to allow a new economic development project, or otherwise required by law; and where the permit applicant did not have knowledge of the hardship, the plans for improvement of service, or the development project when said applicant was required to submit its list of next year projects.

Subd. 4. Permits for Additional Next Year Projects.

Notwithstanding the provisions of Subdivision 1 of this Section, the City may issue a permit to a registrant who was allowed under Section 14.13 to submit an additional next year project, such permit to be subject to all conditions and requirements of law, including such conditions as may be imposed under Section 14.15.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.44 through 14.49, inclusive, reserved for future expansion.)

SECTION 14.50. INSTALLATION REQUIREMENTS.

Subd. 1. General Excavation.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with engineering standards adopted by the PUC or other applicable local requirements, insofar as they are not inconsistent with the PUC Rules.

Subd. 2. Excavation Protection.

The permittee shall be responsible for barricading the excavation in conformance with the Uniform Traffic Control Manual as adopted by the Minnesota Department of Transportation.

A. It shall be the duty of every person cutting or making an excavation in or upon any public place, to place and maintain barricades and warning devices necessary for the safety of the general public. Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the administrative authority. All safety precautions and traffic control measures shall conform to current requirements as specified in the latest edition of the Uniform Traffic Control Manual as adopted by the Minnesota Department of Transportation.

B. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions, as near normal as possible, shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public. Adequate pedestrian passageways shall be maintained.

C. The permittee shall maintain safe crossings for two lanes of vehicle traffic at all street intersections, where possible. If any excavation is made across any public

street, alley, sidewalk, or established crosswalk, adequate crossings shall be maintained for vehicles and for pedestrians.

D. The Public Works Director may, by written approval, permit the closing of streets and alleys for a prescribed period of time. The Public Works Director may require that the permittee give notification to various public agencies and to the general public before approval becomes valid. In specific instances, even though the street may not be closed, the permittee may also be required to give such notice.

Subd. 3. Protection of Adjoining Property.

The permittee shall at all times preserve and protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the process of the work and shall be responsible for all damage to public or private property resulting from its failure to properly protect and carry out said work.

Subd. 4. Maintenance of Roadway Drainage.

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutter line.

Subd. 5. Care of Excavated Material.

All excavated material piled adjacent to the trench or in the street shall be maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using the streets and adjoining property. The Public Works Director may require the permittee to remove the excavation material from the work site. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

Subd. 6. Noise, Dust and Debris.

Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the excavation work, the permittee shall take appropriate measures to reduce, to the fullest extent practical, noise, dust, and unsightly debris. Between the hours of 10 P.M. and 7 A.M., the permitte shall not use, except with the express written permission of the administrative authority, or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep of occupants of the neighboring property.

Subd. 7. Breaking Through Pavement.

A. Heavy-duty pavement breakers may be prohibited by the City when their use may endanger existing substructures or other property.

B. Sections of sidewalks shall be removed to the nearest scoreline or joint.

C. Unstable pavement shall be removed over caveouts and overbreaks and the restoration shall be treated as part of the main excavation.

D. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

E. Cutouts, outside the trench lines must be normal or parallel to the trench line.

F. Boring or other methods to prevent cutting of pavement may be required.

G. All pavements shall be cut a minimum depth of 2" on the outside edge of the area to be excavated before excavation begins to prevent lifting of surfaces outside the area being excavated.

Subd. 8. Clearance for Emergency Facilities.

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes and any other emergency facilities.

Subd. 9. Placement and Compaction.

A. Backfilling shall progress uniformly in horizontal layers throughout the excavation area to be filled. Select materials shall be placed around the pipe, conduit, etc., and carefully compacted with mechanical equipment and non-mechanical tamping within the pipe zone to at least six inches above the conduit. At this point, succeeding layers of backfill material shall be placed in uniform layers before compaction of approximately six inches, tamped by mechanical means specially fabricated for this use only. Compacting with the backhoe bucket or front end loader tires will not be acceptable. Compaction of each layer shall continue until the density is equal to that of adjacent undisturbed materials at the same elevation in the trench. Compacted granular materials shall meet at least 100 percent Standard Proctor Density ASTM D-698-70 if density tests are required.

B. The permitte shall refill the excavation in a manner which is satisfactory to the administrative authority and is most effective to accomplish through consolidation and enable the public place to be restored to a condition equivalent to that in which it was prior to the excavation. When required, soil tests are to be furnished by a registered professional engineer specializing in soil engineering. Prior to resurfacing, tests must show that the backfill material meets the minimum requirements as

prescribed by the administrative authority. The permittee shall be required to bear the expense of such tests.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.51 through 14.59, inclusive, reserved for future expansion.)

SECTION 14.60. INSPECTION.

Subd. 1. Notice of Completion.

When the work under any permit hereunder is completed, the permittee shall furnish a Completion Certificate in accordance with PUC Rules.

A. Unless waived by the City, a person designated by the right-of-way user as a responsible employee shall sign a completion certificate showing the completion date for the work performed, identifying the installer and designer of record, and certifying that work was completed according to the requirements of the City.

B. If necessary due to approved changes for the work as projected when the permit was applied for, the permittee shall submit "as built" drawings or maps within six months of completing the work, showing any deviations from the plan that are greater than plus or minus two feet.

C. The City shall respond within 30 days of receipt of the completion certificate. Failure to approve or disapprove the permittee's performance within 30 days is deemed to be approval by the City.

Subd. 2. Site Inspection.

Permittee shall make the work-site available to the Public Works Director and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd. 3. Authority of Public Works Director.

A. At the time of inspection the Public Works 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.

B. The Public Works Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Public Works Director that the viola-

tion has been corrected. If such proof has not been presented within the required time, the Public Works Director may revoke the permit pursuant to Section 14.63.

SECTION 14.61. WORK DONE WITHOUT A PERMIT.

Subd. 1. Emergency Situations.

A. Each registrant shall immediately notify the City of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency.

B. Within two business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this Chapter for the actions it took in response to the emergency.

Subd. 2. Non-Emergency Situations.

Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by the Legislative Code, deposit with the City the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Chapter.

SECTION 14.62. SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the City of the accurate information as soon as this information is known.

SECTION 14.63. REVOCATION OF PERMITS.

Subd. 1. Substantial Breach.

The City reserves its right, as provided herein, to revoke any Right-of-Way Permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited, to the following:

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 Section 302.27.

Subd. 1. Written Notice of Breach.

If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 2. Response to Notice of Breach.

Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City that will cure the breach. Permittee's failure to so contact the City or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the City, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.

Subd. 3. Cause for Probation.

From time to time, the City may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

Subd. 4. Automatic Revocation.

If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

Subd. 5. Reimbursement of City Costs.

If a permit is revokes, 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.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.64 through 14.69, inclusive, reserved for future expansion.)

SECTION 14.70. MAPPING DATA.

Subd. 1. Information Required.

Each registrant shall provide mapping information required by the City in accordance with PUC Rules to include the following information:

A. Location and approximate depth of applicant's mains, cables, conduits, switches, and related equipment, and facilities, with the location based on:

1. Offsets from property lines, distances from the centerline of the public right-of-way, and curb lines as determined by the City; or

2. Coordinates derived from the coordinate system being used by the City; or

3. Any other system agreed upon by the right-of-way user and City. The type and size of the utility;

B. A description showing above-ground appurtenances;

C. A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and

D. Mapping data shall be provided with the specificity requested by the City for inclusion in the mapping system used by the City.

E. For mapping data provided to the City in GIS compatible and City format, the mapping portion of the excavation/obstruction fee is waived.

Subd. 2. Submittal Requirement.

A. Within six (6) months after the acquisition, installation, or construction of additional equipment or any relocation, abandonment, or disuse of existing equipment, each registrant shall submit the mapping data required herein.

B. Within two (2) years after the effective date of this Chapter, all right-of-way users shall submit detailed plans as may be reasonable and practical for all facilities and equipment installed, used or abandoned within the public right-of-way.

C. Notwithstanding the foregoing, mapping data shall be submitted by all registrants for all equipment which is to be installed or constructed after the effective date of this Chapter at the time any permits are sought under these provisions.

D. Six (6) months after the effective date of this Chapter, a new registrant, or a registrant which has not submitted a plan as required above, shall submit complete and accurate mapping data for all its equipment at the time any permits are sought under these provisions.

Subd. 3. Telecommunication Equipment.

Information on existing facilities and equipment of telecommunications right-of-way users need only be supplied in the form maintained by the telecommunication right-of-way user.

Subd. 4. Trade Secret Information.

At the request of any registrant, any information requested by the City, which qualifies as a "trade-secret" under MN Stat. §13.37(b) shall be treated as trade secret information as detailed therein.

SECTION 14.71. LOCATION OF FACILITIES. (SEE SECTION 4.30, "UNDERGROUND UTILITY CONSTRUCTION").

Subd. 1. Under Ground Installation.

New construction and the installation of new facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes when directed by the Council, except where emergency service is required.

Subd. 2. Corridors.

A. The City may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is, or pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

B. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the

facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Subd. 3. Nuisance.

Two years after the effective date of this Chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

Subd. 4. Limitation of Space.

To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

SECTION 14.72. RELOCATION OF FACILITIES.

Subd. 1. Relocation and Removal from Right-of-Way.

A registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the City for good cause requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The City may make such request to prevent interference by the company's equipment or facilities with (1) a present or future City use of the right-of-way; (2) a public improvement undertaken by the City; (3) an economic development project in which the City has an interest or investment; (4) when the public health, safety and welfare require it; or, (5) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Subd. 2. Payment.

Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

SECTION 14.73. PRE-EXCAVATION FACILITY AND FACILITIES LOCATION.

In addition to complying with the requirements of MN Stat. §216D.01-.09 C ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

SECTION 14.74. DAMAGE TO OTHER FACILITIES.

When the City does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

SECTION 14.75. RIGHT-OF-WAY VACATION.

Subd. 1. Reservation of Right.

If the City vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of registrant's or permittee's facilities, the City shall reserve, to and for itself and all registrants having facilities in the vacated right-of-way, the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

Subd. 2. Relocation of Facilities.

If the vacation requires the relocation of registrant's or permittee's facilities, and (1) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or (2) if the vacation proceedings are initiated by the City, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the City and the registrant or permittee; or (3) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

SECTION 14.76. INDEMNIFICATION AND LIABILITY.

By registering with the City or by accepting a permit under this Chapter, a registrant or permittee agrees as follows:

Subd. 1. Limitation of Liability.

By reason of the acceptance of a registration or the grant of a Right-of-Way Permit, the City does not assume any liability (1) for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the City, or (2) for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by registrants or activities of registrants.

Subd. 2. Indemnification.

A. A registrant or permittee shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the issuance of permits or by the construction, maintenance, repair, inspection, or operation of registrant's or permittee's facilities located in the right-of-way.

B. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the local government unit's negligence as to the issuance of permits or inspections to ensure permit compliance. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts that the registrant or permittee reasonably believes will cause injury or damage, and the performance is nevertheless ordered or directed by the City after receiving notice of the registrant's or permittee's determination.

Subd. 3. Defense.

A. If a suit is brought against the City under circumstances where the registrant or permittee is required to indemnify, the registrant or permittee, at its sole cost and expense, shall defend the City in a suit if written notice of the suit is promptly given to the registrant or permittee within a period in which the registrant or permittee is not prejudiced by the lack or delay of notice.

B. If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the City. Consent will not be unreasonably withheld.

C. This part is not, as to their parties, a waiver of any defense, immunity, or damage litigation otherwise available to the City. In defending an action on behalf of

the City, the registrant or permittee is entitled to assert in an action every defense, immunity, or damage limitation that the City could assert in its own behalf.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.77 through 14.89, inclusive, reserved for future expansion.)

SECTION 14.90. ABANDONED AND UNUSABLE FACILITIES.

Subd. 1. Discontinued Operations.

A registrant who has determined to discontinue its operations in the City must either:

A. Provide information satisfactory to the City that the registrant's obligations for its facilities in the right-of-way under this Chapter have been lawfully assumed by another registrant; or

B. Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If a registrant proceeds under this clause, the City may, at its option:

1. Purchase the facilities; or

2. Require the registrant, at its own expense, to remove it; or

3. Require the registrant to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

Subd. 2. Abandoned Facilities.

Facilities of a registrant who fails to comply with Subdivision 1 of this Section, and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to: (a) abating the nuisance, (b) taking possession of the facilities and restoring it to a useable condition; or (c) requiring removal of the facilities by the registrant, or the registrant's successor in interest.

Subd. 3. Removal.

Any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the City.

SECTION 14.91. APPEAL.

Subd. 1. Right of Review by Council.

A right-of-way user that (a) has been denied registration; (b) has been denied a permit, (c) has had a permit revoked; or (d) believes that the fees imposed are valid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the Council. The Council shall act on a timely written request. A decision by the Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Subd. 2. Arbitration.

Upon affirmation by the Council of the denial, revocation, or fee imposition, the right-of-way user shall have the right to have the matter resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the Council and right-of-way user. If the parties cannot agree on an arbitrator, the matter must be resolved by a three-person arbitration panel made up of one arbitrator selected by the City, one arbitrator selected by the right-of-way user and one selected by the other two arbitrators. The costs and fees of single arbitrator shall be borne equally by the City and right-of-way user. In the event there is a third arbitrator, each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration.

SECTION 14.92. 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.

SECTION 14.93. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under this Chapter or any portions of this Chapter is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. Nothing in this Chapter precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

(Sections 14.94 through 14.98, inclusive, reserved for future expansion.)

SECTION 14.99. VIOLATION A MISDEMEANOR.

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

Source: Ordinance No. 137, 3rd Series
Effective Date: 04-07-2000

CHAPTERS 15 - 19 ARE RESERVED FOR FUTURE EXPANSION

CHAPTER 20

LISTING OF UNCODED ORDINANCES IN EFFECT

All ordinances described in this Chapter remain in effect after adoption of the City Code. They are of a permanent and continuing nature as authority for a specific act which has been performed. These ordinances are of two types, that generally distinguish them from other provisions of the City Code, either (1) their texts have no continuing reference value, or (2) they are in the nature of a contract and of only occasional reference value. For these reasons it appears justified to list and describe them here only to facilitate finding them in the event this becomes necessary.

Administration

Ordinance No. 90, adopted August l3, l958, abolishes the office of Village Constable and transfers powers to the Village Police Officers.

Ordinance No. l48, adopted June ll, l974, provides for the date of the regular City election and extends the term of Council members for one (l) year where necessary. (Superseded by Ordinance No. 83, 3rd Series, adopted 8-22-90. See City Code Section 2.l9.)

Ordinance No. l52, adopted June 9, l975, abolishes positions of Treasurer and Clerk and combines them in the position of Clerk-Treasurer.

Municipal Auditorium

Ordinance No. 48, adopted June l3, l934, provides for the erection and maintenance of a gymnasium and auditorium in recognition of the services performed by soldiers, sailors, marines and war veterans of the United States, and provides for the cost thereof.

Street Name Changes

Ordinance No. 4, adopted May 11, 1927, changes the name of 3rd Street, north of NPRY, to Jefferson Street North, and 3rd Street, south of NPRY, to Jefferson Street South; changes the name of 4th Street, south of NPRY, to 1st Street Southwest, and 4th Street, north of NPRY, to 1st Street Northwest; changes the name of 5th Street, south of NPRY, to 2nd Street Southwest; and 5th Street, north of NPRY, to 2nd Street Northwest; changes the name of 6th Street, south of NPRY, to 3rd Street Southwest, and 6th Street, north of NPRY, to 3rd Street Northwest; changes the name of 7th Street, south of NPRY, to 4th Street Southwest, and 7th Street, north of NPRY, to 4th Street Northwest; changes the name of 8th Street to 5th Street Southwest; changes the name of 2nd Street, south of NPRY, to 1st Street Southeast, and changes 2nd Street, north of NPRY, to 1st Street Northeast; changes the name of 1st Street and Prospect Avenue, south of NPRY, to 2nd Street Southeast and 1st Street, north of NPRY, to 2nd Street Northeast; changes the name of Irwin Street and "A" Street to 3rd Street Southeast, and the name of Kindred Avenue to 3rd Street Northeast; changes the name of 1st Avenue to 4th Street Southeast; changes the name of 2nd Avenue to 5th Street Southeast; changes the name of Stuart Street and Front Street to Aldrich Avenue; changes the name of Averill Street to Bryant Avenue; changes the name of King Street to Colfax

Avenue; changes the name of Windom Street to Dayton Avenue; changes the name of Hamlin Street to Emerson Avenue; changes the name of Sabin Street to Franklin Avenue; changes the name of Nelson Street to Garfield Avenue; changes the name of Arthur Street to Howard Avenue; changes the name of Lincoln Street to Irving Avenue; changes the name of Garfield Street to Jackson Avenue and Ellen Street to Jackson Avenue Southeast; changes the name of Peake Street to King Avenue; changes the name of Murray Street to Lincoln Avenue; changes the name of Main Street to Ash Avenue; changes the name of Jordan Street to Birch Avenue; changes the name of Gardner's Avenue to Cedar Avenue; changes the name of 4th Avenue and Case Street to Deerwood Avenue; changes the name of 5th Avenue and Oak Street to Elm Avenue; changes the name of 6th Avenue to Fir Avenue; and names the road entering the City along the south side of Park Addition, Verndale Avenue, from 2nd Street Southeast to City limits.

Ordinance No. 83, adopted April 27, 1955, changes the name of 4th Street Southwest between Irving Avenue and King Avenue to 6th Street Southwest; changes the name of 5th Street Southwest between Irving Avenue and King Avenue to 7th Street Southwest; changes the name of Ebner Street to 7th Street Southwest; and, changes the name of 6th Street Southwest between Irving Avenue and King Avenue to 8th Street Southwest.

Ordinance No. 102, adopted October 23, 1963, changes the name of 9th Street Southwest between King Avenue and Kingsley Avenue to 10th Street Southwest.

Ordinance No. 108, adopted April 14, 1965, changes the name of Verndale Avenue between 2nd Street Southeast and City limits to Homecrest Avenue.

Ordinance No. 143, adopted November 28, 1973, changes the name of Oak Court to Bretz Lane; names County Road No. 101 between Olmstead Avenue Southwest and southerly to City limits, 2nd Street Southwest; changes the name of Creek Crossing between 2nd Street Southwest (formerly known as County Road 101) and easterly to City limits, to Park Avenue; and, changes the name of Sunnybrook Drive to Harry-Rich Drive.

Ordinance No. 114, 3rd Series, adopted October 2, 1997, changes the name of C.S.A.H. No. 4 to Sunnybrook Road; and unnamed street located between 6th Street Northeast and Harry & Rich Drive to Neal Avenue; an unnamed street located between Alfred Street Northwest and 2nd Avenue Northwest to Alfred Avenue Northwest; and, County Road No. 103 to Homecrest Avenue.

Ordinance No. 134, 3rd Series, adopted January 11, 2000, changes the names of Back Nine Road and Tee Lane of Wadena Golf Course Lots to Silo Heights Drive.

ZONING MAP AMENDMENTS

Ordinance Number	Date of Adoption
135	07-17-1972
139	03-28-1973
142	08-08-1973
145	01-09-1974
146	03-13-1974
149	06-26-1974
151	05-14-1975
162	06-14-1976
165	11-24-1976
166	01-12-1977
167	06-13-1977
170	02-22-1978
172	01-25-1978

Ordinance Number	Date of Adoption
105	6-22-1994
111	4-12-1995
138	4-11-2000
166	10-11-2005

THIRD SERIES

7	03-12-1980
9	05-14-1980
10	07-23-1980
11	09-10-1980
25	06-23-1982
63	07-23-1986
78	08-10-1988
99	12-08-1993
100	12-08-1993
101	12-08-1993
103	03-09-1994
105	06-22-1994
111	04-12-1995
138	04-11-2000
166	10-11-2005

Annexations

Table 1:

Ordinance Number	Date of Adoption	Brief Description
132 Repealed by Ordinance 133	01-12-1972	Lots 1 through 4, inclusive, Block 1; Lots 1 through 4, (Repealed inclusive, Block 4 and Block 2 in Southbrook; Lots 1 through 4, inclusive, of Southbrook Improvements; and, No. 133 Government Lot 1 and SE3, NW3, 18-134-35 and part of NW3, NE3, 18-134-35
136	1-10-1973	Lots 1 through 6, inclusive, Block 3, Lots 9 through 13, inclusive, Block 4 of Southbrook, and all roads, streets and alleys adjacent thereto.
160	6-14-1976	Lots 7 through 16, inclusive, Block 3, Lots 1 through 8, inclusive, Block 4, all of Block 5, all of Block 6 and including all adjacent streets and roadways, all in South-brook Addition.
168	7-11-1977	NW3, 17-134-35, except that part platted as Pine View Acres, and except that part lying westerly of the Great Northern Railway right of way, subject to easement and res-ervation of record, if any.
169	10-12-1977	Land platted as Oak Grove in N2, SE3, 12-134-36, Otter Tail County.

THIRD SERIES

Ordinance Number	Date of Adoption	Brief Description
2	4-25-1979	Part of W2 of NE3 of 17-134-35, lying East of Wadena County Aid Road No. 104.
96	3-10-1993	W2 of W2 of 4-134-35.
97	3-10-1993	Part of NE3 of NE3, 18-134-35; all of that portion of Burl-ington Northern Railroad Company right of way across Sec-tions 17 and 18.
135	1-11-2000	North 40 feet of West 1,280 feet of East 2,000.00 feet of the S-1/2 of the SE-1/4, 12-134-36.

THIRD SERIES

Ordinance Number	Date of Adoption	Brief Description
136	1-11-2000	Part of South 2 of NW-1/4 of NW-1/2, 27-135-35.

Gas Franchises

Ordinance Number	Date of Adoption	Grantee
85 Repealed by Ord. No. 106	10-19-1955	Minnesota Valley Gas Company
94	4-27-1960	United Petroleum Gas Company.
95	5-25-1960	United Petroleum Gas Company.
100	2-27-1963	North Star Natural Gas Company
106	8-261964	(This Ordinance repeals, among others, Ordinance No. 85, described above

THIRD SERIES

Ordinance Number	Date of Adoption	Grantee
74	10-14-1987	Northern Minnesota Utilities, for a period of twenty-five (25) years.
168	6-13-2006	Aquila, Inc., for a period of 10 years.

CABLE TELEVISION FRANCHISE

Ordinance Number	Date of Adoption	Franchisee
104	6-24-1964	Minnesota Television Company
12, 3rd Series amended by Ordinan-ace No. 45, 3rd Series	Effective 11-5-1980 11-2-1984	Horizon Communications Corporation of Minnesota for an initial franchise term of nine (9) years and a renewal term of fifteen (15) years.
56, 3rd Series amends Ordinance 45, 3rd Series	6-26-1985	Adopts Minnesota Rule 2315.0400A Cable Communications Board Franchise Standards For Access Channels.
106, 3rd Series	9-21-1994	Grants a cable system franchise to WestMarc Communications of Minnesota, Inc., for a period of fifteen (15) years.
107, 3rd Series, amends Subd. 2.5 of Section II, Subd. 3.12 of Section III and, Subd. 4.1 of Section IV of Ordinance No. 106, 3rd Series	11-22-1994	
155, 3rd Series	5-11-2004	Tekstar Communications, Inc., d/b/a Arvig Communications Systems to be in effect until September 21, 2009, the date on which the existing franchise held by Charter Communi-cations shall expire.
156, 3rd Series amends Ordinance No. 106, 3rd Series by revising the definition of “Gross Revenues”, amending Sec. 2.5, revising the Franchise Fee Payment Work-sheet and deleting Sec. 6.3 relating to bond requirement.	6-8-2004	

Electric Franchise

Ordinance No. 3, 3rd Series, adopted July 25, 1979, grants a franchise to Todd-Wadena Electric Cooperative to operate an electric distribution system for a period of ten (10) years.

Adoption of Codification

Ordinance No. 1, 3rd Series, adopted November 22, 1978, provides for adoption of a codification of ordinances known as the Wadena City Code.

Issuance of Bonds

Ordinance No. 76, 3rd Series, adopted December 23, 1987, authorizes issuance of bonds by the Wadena Development Authority in the principal amount of $275,000.00.

Housing and Redevelopment Authority

Ordinance No. 112, 3rd Series, adopted August 9, 1995, authorizes Housing and Redevelopment Authority (HRA) to enact a housing plan on behalf of the City.

Chapters 15 - 19 reserved for future expansion

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