

# CITY OF HECTOR, MINNESOTA

## CODE OF ORDINANCES

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## TITLE I: GENERAL PROVISIONS

Chapter

### 10. GENERAL PROVISIONS

### CHAPTER 10: GENERAL PROVISIONS

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## § 10.01 TITLE OF CODE.

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

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code”. Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01”. Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(Prior Code, § 10.01)

## § 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

(Prior Code, § 10.02)

## § 10.03 APPLICATION TO FUTURE ORDINANCES.

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

(Prior Code, § 10.03)

## § 10.04 CAPTIONS.

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

(Prior Code, § 10.04)

## § 10.05 DEFINITIONS.

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

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

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

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

**COUNTY.** Renville County.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

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

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department

of this city unless the context clearly requires otherwise.

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

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

**SHALL.** The act referred to is mandatory.

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

**STATE.** The State of Minnesota.

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

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

**YEAR.** A calendar year, unless otherwise expressed.

(Prior Code, § 10.05)

#### **§ 10.06 SEVERABILITY.**

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

(Prior Code, § 10.06)

#### **§ 10.07 REFERENCE TO OTHER SECTIONS.**

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

(Prior Code, § 10.07)

#### **§ 10.08 REFERENCE TO OFFICES.**

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

(Prior Code, § 10.08)

#### **§ 10.09 ERRORS AND OMISSIONS.**

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

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

(Prior Code, § 10.09)

#### **§ 10.10 OFFICIAL TIME.**

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

(Prior Code, § 10.10)

#### **§ 10.11 REASONABLE TIME.**

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

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

(Prior Code, § 10.11)

#### **§ 10.12 ORDINANCES REPEALED.**

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

(Prior Code, § 10.12)

### **§ 10.13 ORDINANCES UNAFFECTED.**

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

(Prior Code, § 10.13)

### **§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

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

(Prior Code, § 10.14)

### **§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

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

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

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

(Prior Code, § 10.15)

### **§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

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

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

(Prior Code, § 10.16)

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

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

(Prior Code, § 10.17)

### **§ 10.18 COPIES OF CODE.**

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

(Prior Code, § 10.18)

### **§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.**

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

(Prior Code, § 10.19)

### **§ 10.99 GENERAL PENALTY.**

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

code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

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

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

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

(Prior Code, § 10.99)

## TITLE III: ADMINISTRATION

Chapter

- 30. CITY COUNCIL
- 31. CITY OFFICIALS
- 32. DEPARTMENTS, BOARDS, AND COMMISSIONS
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### CHAPTER 30: CITY COUNCIL

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- 30.01 Meetings
- 30.02 Presiding officer
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- 30.04 Order of business
- 30.05 Quorum and voting
- 30.06 Ordinances, resolutions, motions, petitions, and communications
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- 30.09 Compensation

#### § 30.01 MEETINGS.

(A) *Regular meetings.* Regular meetings of the Council shall be held on the second Monday of each month at 6:00 p.m. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place, or at a time and place decided by the Council with at least one published notice in the designated official newspaper. All meetings, including special and adjourned meetings, shall be held in the City Community Center, or as designated by the City Council with notice of the place of meeting to be posted at the City Hall.

(B) *Special meetings.*

(1) The Mayor or any two members of the Council may call a special meeting of the Council upon at least 24 hours' written notice to each member of the Council. This notice shall be delivered personally to each member or shall be left at the member's usual place of residence with some responsible person.

(2) At least three days before the meeting, written notice shall be posted on the bulletin board of the city and shall be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings. As an alternative to mailing or otherwise delivering notice to persons who have requested notice, notice may be published once at least three days before the meeting in the official newspaper.

(C) *Initial meetings.* At the first regular Council meeting in January of each year, the Council shall:

- (1) Designate the depositories of city funds;
- (2) Designate the official newspaper;

(3) Choose one of the Council members as acting Mayor, who shall perform the duties of the Mayor during the 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 qualified; and

(4) Appoint such officers and employees and such members of boards, commissions, and committees as may be necessary.

(D) *Public meetings.* All Council meetings, including special and adjourned meetings and meetings of Council committees, shall be open to the public, except the Council may close a meeting as provided for by the Open Meeting Law, M.S. Chapter 13D, as it may be amended from time to time.

(Prior Code, § 30.01) (Ord. 195, passed 4-10-1995; Ord. 2019-242, passed 1-13-2020)

### **§ 30.02 PRESIDING OFFICER.**

(A) *Who presides.* The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the acting Mayor shall preside. In the absence of both, the Administrator shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer.

(B) *Procedure.* The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with *Robert's Rules of Order, Revised*.

(C) *Appeal procedure.* Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his or her ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.

(D) *Rights of presiding officer.* The presiding officer may make motions, second motions, or speak on any question, except that on demand of any Council member he or she shall vacate the chair and designate a Council member to preside temporarily.

(Prior Code, § 30.02)

### **§ 30.03 MINUTES.**

(A) *Who keeps.* Minutes of each Council meeting shall be kept by the Administrator. In the absence of the Administrator, the presiding officer shall appoint a Secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Administrator and can be accurately identified from the description given in the minutes.

(B) *Approval.* The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Administrator, and copies thereof shall be delivered to each Council member as soon as practicable after the meeting. At the next regular Council meeting following such delivery, approval of the minutes shall be considered by the Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

(Prior Code, § 30.03)

### **§ 30.04 ORDER OF BUSINESS.**

(A) *Order established.* Each meeting of the Council shall convene at the time and place appointed therefor. Council business shall be conducted in the following order:

- (1) Call to order;
- (2) Roll call;
- (3) Approval of minutes;
- (4) Public hearings;
- (5) Petitions, requests, and communications;
- (6) Ordinances and resolutions;
- (7) Reports of officers, boards, and committees;
- (8) Unfinished business;
- (9) New business;
- (10) Miscellaneous; and
- (11) Adjournment.

(B) *Varying order.* The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of hearing.

(C) *Agenda.* An agenda of business for each regular Council meeting shall be prepared and filed in the office of the Administrator.

The agenda shall be prepared in accordance with the order of business and copies thereof shall be delivered to each Council member.

(Prior Code, § 30.04)

### **§ 30.05 QUORUM AND VOTING.**

(A) *Quorum.* At all Council meetings, 50% of all the Council members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time and the Council may punish nonattendance by a fine not exceeding \$25 for each absence from any meeting unless a reasonable excuse is offered.

(B) *Voting.* The votes of the members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to his or her name, shall be marked "Present--Not Voting".

(C) *Votes required.* A majority vote of all members of the Council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

(Prior Code, § 30.05)

### **§ 30.06 ORDINANCES, RESOLUTIONS, MOTIONS, PETITIONS, AND COMMUNICATIONS.**

(A) *Readings.* Every ordinance and resolution shall be presented in writing. Every ordinance shall receive two readings before the Council prior to final adoption but shall not be read twice at the same meeting unless the rules are suspended for that purpose. An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.

(B) *Signing and publication proof.* Every ordinance and resolution passed by the Council shall be signed by the Mayor, attested by the Administrator, and filed by the Administrator in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

(C) *Repeals and amendments.* Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

(D) *Motions, petitions, and communications.* Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes. Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the Administrator.

(Prior Code, § 30.06)

### **§ 30.07 COMMITTEES.**

(A) *Committees designated.* The Council may create such committees, standing or special, as it deems necessary. Committees shall consist of as many members and perform such duties as the Council may require.

(B) *Membership.* Each committee shall consist of at least one member of the Council, and the Chairperson of each committee shall be designated by the Mayor or elected by the committee at the Mayor's discretion and Council approved. Each committee member shall serve as appointed unless excused by a majority of the members of the Council. If the committee does not provide otherwise, committee meetings shall be held at the call of the Chairperson. The same notice shall be given of committee meetings as for special meetings of the Council, except that personal notice need not be given each member if the committee so decides.

(C) *Referral and reports.* Any matter brought before the Council for consideration may be referred by the presiding officer to the appropriate committee or to a special committee appointed by the presiding officer for a written report and recommendation before it is considered by the Council as a whole. Each committee report shall be signed by a majority of the members and shall be filed with the Administrator prior to the Council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it.

(Prior Code, § 30.07)

### **§ 30.08 SUSPENSION OR AMENDMENT OF RULES.**

These rules may be suspended only by a two-thirds vote of the members present and voting.

(Prior Code, § 30.08)

### **§ 30.09 COMPENSATION.**

The Council, by ordinance, shall from time to time establish the salaries of the Mayor, Vice-Mayor, and Council members. No change in salaries shall take effect until after the next succeeding regular city election after the ordinance is adopted. In addition to these salaries, the Mayor and all Council members shall be entitled to an amount determined by the City Council per diem, plus other expenses and a mileage rate as established by the IRS for out-of-town meetings.

(Prior Code, § 30.09) (Ord. 229, passed 10-9-2006; Ord. 30.09, passed 8-11-2014)

## CHAPTER 31: CITY OFFICIALS

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### Section

31.01 Abolishing the office of Clerk and establishing the office of City Administrator

31.02 Combining the offices of City Administrator and City Treasurer

### **§ 31.01 ABOLISHING THE OFFICE OF CLERK AND ESTABLISHING THE OFFICE OF CITY ADMINISTRATOR.**

(A) The office of Clerk for the city is abolished.

(B) The city establishes the office of City Administrator. The person designated as City Administrator shall perform the following duties:

- (1) Send out notice of each regular and special election, record the election procedure, and notify officials of their elections and appointments to office and certify to County Auditor all election results;
- (2) Keep minute books with all proceedings of Council meetings and keep ordinance book up to date;
- (3) Keep an account book to enter all money transactions of the city, including dates and amounts of all receipts and person from whom money was received and all orders drawn upon the Treasurer with their payee as object;
- (4) Act as Clerk and Bookkeeper of the city;
- (5) Act as custodian of the city seal and records and sign all official papers and post and publish such notices, ordinances, and resolutions as may be required;
- (6) Receive fees allowed by law to the City Clerk, but Council requires the City Administrator to pay such fees into the City Treasury;
- (7) May appoint a Deputy with the consent of the City Council; if such Deputy is appointed, the City Administrator shall be responsible for the actions of the Deputy;
- (8) Make out a financial report, statement of tax collection, and statement of outstanding bonds and orders at the end of every year;
- (9) Receive and safely keep all monies belonging to the city;
- (10) Pay out money only upon written order of Mayor or such other officers or independent boards or commissions as authorized to use orders;
- (11) Deliver to successor all books, papers, and money belonging to the city;
- (12) Report to Council immediately after the close of the calendar year a report for public inspection on the balances, receipts, and disbursements by funds for the year;
- (13) The City Administrator shall supervise the activities of all municipal department heads and personnel of the city and the administration of municipal policy with authority to effectively recommend their employment or removal. The City Administrator shall handle all personnel matter for the city in conjunction with the policy established by the City Council;
- (14) Prepare all reports in a timely manner;
- (15) Be responsible for factual determination and execution of Council policies;
- (16) Make purchases and let contracts, subject to approval of City Council;
- (17) Oversee long- and short-term departmental planning;
- (18) Organize and direct work load;
- (19) Report to Council and general public;
- (20) The City Administrator shall attend and participate in all meetings of the City Council. He or she shall be responsible for preparation of the City Council agenda and recommend to the City Council such measures as he or she shall deem necessary for the welfare of the citizens and efficient administration of the city. He or she shall attend, at his or her discretion, or at the direction of the City Council, other committee and commission meetings;
- (21) The City Administrator shall prepare the annual fiscal budget, capital improvement plan, and shall report the budget status and administrative status on a regular basis for the City Council. He or she shall maintain financial guidelines for the city within the scope of his or her responsibilities, submit reports to the City Council on the financial condition of the municipal accounts, and make sure the annual financial statement is prepared in accordance with state statutes;
- (22) The City Administrator shall coordinate municipal programs and activities as they rectify the City Council. He or she shall monitor all consultant and contract work performed for the city. He or she shall coordinate the activities of the City Attorney;
- (23) The City Administrator shall work in cooperation with the City Council's appointed attorney and engineer;
- (24) The City Administrator shall prepare news releases and develop and discuss public relations with all concerned as required;

(25) The City Administrator shall be informed regarding federal, state, and county programs which affect the city. He or she shall consult with officials of both public and private agencies as may be required;

(26) The City Administrator shall inform the City Council in matters dealing with administration of the city and prepare and submit to the City Council for adoption an administrative code encompassing the details of administrative procedures; and

(27) He or she shall perform such other duties as may be prescribed by law or required of him or her by ordinance or resolutions adopted by the City Council.

(C) The City Administrator must have considerable knowledge of municipal government operation, proper procedures, public relations, finances, purchasing and all administrative requirements for proper municipal operation. He or she must have knowledge of or ability to acquire full knowledge of all laws affecting the city. He or she must provide harmonious relations with the municipal employees and the general public. He or she must have the ability to plan development, to collect material and analyze for reporting and to conduct and implement standards of procedure, operation and organization. The City Administrator shall possess a Bachelors Degree in Public Administration or Business Administration or their equivalent. The City Administration shall be appointed for an indefinite period by a majority of the City Council and may be removed from office at will during a six month probationary period by a majority of the City Council.

(D) In the absence of or temporary vacancy in the position of the City Administrator, the title of Administrator and/or City Administrator as written in all ordinances and/or resolutions adopted by the City Council shall be replaced by the title of City Council.

(Ord. 172, passed 4-14-1992)

### **§ 31.02 COMBINING THE OFFICES OF CITY ADMINISTRATOR AND CITY TREASURER.**

(A) Pursuant to the authority granted by M.S. § 412.591, Subd. 2, as it may be amended from time to time, the offices of Administrator and Treasurer in the city are combined in the office of Administrator.

(B) Beginning with the year in which this section becomes effective and each year thereafter, there shall be an audit of the city's financial affairs by the State Auditor or a Public Accountant in accordance with minimum auditing procedures prescribed by the State Auditor.

(Prior Code, § 31.02) (Ord. 175, passed 10-13-1992)

## **CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS**

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**PUBLIC WORKS DEPARTMENT**

**§ 32.001 DIRECTOR.**

A Public Works Department under the general control of the Council is continued. The head of this Department shall be known as the Director of the Public Works Department and shall be appointed by the Council.

(Prior Code, § 32.001)

**§ 32.002 DIRECTOR RESPONSIBILITIES.**

(A) All streets, sidewalks, and alleys within the city, all parks and parkways, the swimming pool, the cemetery, City Hall, the theater, the City Community Center, the city garage, the city dump, and all city storm sewers shall be under direct supervision of the Director of the Public Works Department. In addition, it shall be the duty of the Director to see that the laws of the state and the codes of the city relating to weed control and eradication are observed. The Director shall have supervision of all labor and custody of all property used and maintained for the purpose of such Department.

(B) It shall be the duty of the Director, whenever requested by the Council, to file with the Administrator a report as to the condition of streets, alleys, parks, parkways, storm sewers, and sidewalks and recommendations as to any repair or improvement which are required. Water, lights, sanitary sewer, and disposal responsibilities are also those of the Public Works Department.

(C) The Director shall have under the general management and control of the Council the supervision and management of the operation and maintenance of water, lights, sanitary sewer, and disposal requirements for the city and of all skilled and unskilled labor required for work related thereto, and the Director shall be responsible for and have custody of all property for such activities.

(Prior Code, § 32.002)

### **§ 32.003 LIEN.**

The city shall have the first lien upon all property where it has furnished the services of any public utility, such as water, light, electrical, sanitary sewer, or disposal for sums due to the city for the services, including labor and materials furnished, whether the same is furnished at the request of the owner, lessee, or occupant, and all such amounts remaining unpaid on October 1 of each year shall be levied and assessed by resolution of the Council against each lot, piece, or parcel of land owned by the person to whom the service was rendered or such lien may be foreclosed by appropriate action at law.

(Prior Code, § 32.003)

## **POLICE DEPARTMENT**

### **§ 32.015 ESTABLISHMENT.**

A Police Department is continued. The head of the Department shall be known as the Chief of Police and the number of additional members of the Department, together with their ranks and titles, shall be determined by the Council by resolution. The compensation to be paid members of the Police Department shall be fixed by the Council. Members of the Department shall be appointed by the Council.

(Prior Code, § 32.015)

### **§ 32.016 CHIEF OF POLICE.**

(A) The Chief of Police shall have supervision and control of the Police Department and its members. The Chief of Police shall be responsible to the Council for law enforcement and for property of the city used by the Department. The Chief of Police shall be responsible for the proper training and discipline of the members of the Department. The Chief of Police shall be responsible for the keeping of adequate records and shall report to the Council on the needs of the Department and its work.

(B) Every member of the Department subordinate to the Chief of Police shall obey the instructions of the Chief of Police and any superior officer. The Council shall designate one of the police officers as acting Chief of Police, who shall have the powers and duties of the Chief of Police during his or her absence or disability.

(Prior Code, § 32.016)

### **§ 32.017 DUTIES OF POLICE.**

(A) Members of the Police Department shall enforce the ordinances and laws applicable to the city, bring violators before the county court and make complaints for offenses coming to their knowledge. Members of the Police Department shall serve processes on behalf of the city and shall serve such notices as may be required by the Council or other authority.

(B) When the city is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law for town constables. All such fees shall be paid into the City Treasury.

(Prior Code, § 32.017)

### **§ 32.018 UNIFORM AND BADGE.**

Each member of the Department shall, while on duty, wear a suitable badge and uniform furnished by the city, except that the Chief of Police may authorize the performance of specific duties while not in uniform. When a member terminates his or her membership in the Department, the badge, uniform, and all other property of the city shall be delivered immediately to the city.

(Prior Code, § 32.018)

### **§ 32.019 EXTRA POLICE.**

(A) In case of riot or other law enforcement emergency, the Mayor may appoint for a specified time as many special police officers as may be necessary for the maintenance of law and order. During such term of appointment, the special police officers shall have only those powers and perform only those duties as shall be specifically assigned by the Chief of Police.

(B) With regard to part-time police officers, the city specifically adopts M.S. § 626.84, Subd. 1(f) and M.S. §§ 626.8461 through 626.8466, as they may be amended from time to time.

(Prior Code, § 32.019)

## **FIRE DEPARTMENT**

### **§ 32.030 ESTABLISHMENT.**

There is continued in this city a Volunteer Fire Department consisting of a Chief, an Assistant Chief, a Fire Marshal and not fewer than 20, nor more than 30, firefighters.

(Prior Code, § 32.035)

### **§ 32.031 ELECTION AND CONFIRMATION.**

The Chief shall be elected by the Fire Department and approved by a majority vote of the Council. The Assistant Chief, Fire Marshal, and new firefighters shall be elected by the Fire Department and shall be confirmed by a majority vote of the Council. Each officer and every other member of the Department, except a probationary firefighter, shall serve during good behavior and may be removed by the Council only for cause after a public hearing. The present constitution and bylaws of the Department shall be continued; future changes shall be subject to confirmation and approval by the Council.

(Prior Code, § 32.036)

### **§ 32.032 DUTIES OF FIRE MARSHAL.**

The office of Fire Marshal may be held by the Chief or by the Assistant Chief if the Council, by resolution, approves. The Fire Marshal shall be charged with the enforcement of all ordinances aimed at fire prevention. The Fire Marshal shall have full authority to inspect all premises and to cause the removal or abatement of all fire hazards.

(Prior Code, § 32.037)

### **§ 32.033 DUTIES OF CHIEF.**

(A) The Chief shall have control of all the firefighting apparatus and shall be solely responsible for its care and condition and shall make a semi-annual report to the Council at its meeting in March and September on the condition of the equipment and needs of the Fire Department.

(B) The Chief may submit additional reports and recommendations at any meeting of the Council and report each suspension of a member of the Fire Department at the first meeting of the Council following such suspension.

(C) In addition, the Chief shall be responsible for the proper training and discipline of the members of the Fire Department and may suspend any member for refusal or neglect to obey orders pending final action by the Council on the member's discharge or retention.

(Prior Code, § 32.038)

### **§ 32.034 RECORDS.**

(A) The Chief shall keep in convenient form a complete record of all fires.

(B) Such a record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the Department responding to the alarm, and such other information as the Chief may deem advisable or as may be required from time to time by the Council or State Insurance Department.

(Prior Code, § 32.039)

### **§ 32.035 PRACTICE DRILLS.**

The Chief shall, when the weather permits, hold a monthly practice drill of at least one hour's duration for the Fire Department and shall give or arrange for instruction to the firefighters in approved methods of firefighting and fire prevention.

(Prior Code, § 32.040)

### **§ 32.036 ASSISTANT CHIEF.**

In the absence or disability of the Chief, the Assistant Chief shall perform all the functions and exercise all of the authority of the Chief.

(Prior Code, § 32.041)

### **§ 32.037 FIREFIGHTERS.**

(A) The Assistant Chief and firefighters shall be able-bodied and not less than 18 years of age. They shall become members of the Fire Department only after a six months' probationary period.

(B) The Council may require that each candidate, before the candidate may become a probationary firefighter, must satisfy certain minimum requirements of height, weight, education, and any other qualification which may be specified by the Council and that the candidate must pass satisfactorily a mental and physical examination.

(Prior Code, § 32.042)

### **§ 32.038 LOSS OF MEMBERSHIP.**

Absence of any firefighter from three consecutive drills or calls, unless excused by the Chief, shall be cause for removal from the Department.

(Prior Code, § 32.043)

### **§ 32.039 COMPENSATION.**

(A) The members and officers of the Fire Department shall receive compensation as determined by the City Council.

(B) All members and officers of the Fire Department shall receive reasonable compensation for attendance at authorized classes, seminars, or meetings, including reasonable amounts for meals, lodging, registration fees, and mileage expenses based on an amount determined by the Council.

(Prior Code, § 32.044)

**§ 32.040 MINIMUM PAY.**

In computing compensation for fires and practice drills, one hour shall be considered as the minimum to be paid to any firefighter or officer. For answering a call, each firefighter and officer shall receive a minimum amount determined by the City Council.

(Prior Code, § 32.045)

**§ 32.041 PRESENT MEMBERS.**

No person who is a member of the Fire Department at the time of the adoption of this code shall be required to serve a probationary period before becoming a firefighter.

(Prior Code, § 32.046)

**§ 32.042 RELIEF ASSOCIATION.**

The members and officers of the Fire Department may organize themselves into a firefighters' relief association in accordance with the law.

(Prior Code, § 32.047)

**§ 32.043 INTERFERENCE WITH DEPARTMENT.**

No person shall give or make, or cause to be given or made, a fire alarm without probable cause, neglect or refuse to obey any reasonable order of the Chief at a fire, or interfere with the Fire Department in the discharge of its duties.

(Prior Code, § 32.048)

**§ 32.044 MUTUAL AID AGREEMENTS.**

The city may enter into mutual aid agreements with townships with the approval of the Council.

(Prior Code, § 32.049)

**PLANNING COMMISSION**

**§ 32.055 ESTABLISHMENT.**

A City Planning Commission for the city, hereinafter referred to as "Commission", is established. The Commission shall be the city planning agency authorized by M.S. § 462.354, Subd. 1, as it may be amended from time to time.

(Prior Code, § 32.060)

**§ 32.056 COMPOSITION.**

(A) *Membership.* The City Planning Commission shall consist of nine members. The Public Works Director and the City Attorney shall be members ex-officio and the Council shall select two members of the Commission from its own membership. The other seven members shall be appointed and may be removed by the Council.

(B) *Terms, vacancies, and oath.* Of the members of the Commission first appointed, two shall be appointed for the term of one year, two for the term of two years, two for the term of three years, and one for the term of four years. Their successors shall be appointed for terms of four years. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. The terms of ex-officio members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every appointed member shall before entering upon the discharge of duties take an oath promising to faithfully discharge the duties of the office. All members shall serve without compensation.

(Prior Code, § 32.061)

**§ 32.057 ORGANIZATION, MEETINGS, AND THE LIKE.**

(A) *Officers.* The Commission shall elect a Chairperson from among its appointed members for a term of one year; and the Commission may create and fill such other offices as it may determine. The Administrator shall act as Secretary of the Commission but shall not be a member.

(B) *Meetings, records, and reports.* The Commission shall hold meetings from time to time as deemed necessary. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. On or before February 15 of each year, the Commission shall submit to the Council a report of its work during the preceding calendar year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the Council.

(Prior Code, § 32.062)

### **§ 32.058 POWERS AND DUTIES OF COMMISSION.**

(A) The Commission shall have the powers and duties given planning agencies generally by law.

(1) The Commission shall also exercise the duties conferred upon it by this code and by the Council.

(2) After the Commission has prepared and adopted a comprehensive plan, the Commission shall periodically, but at least once every year, review the comprehensive plan, any code, and any capital improvement program the Council had adopted to implement the plan.

(B) After such review it shall, to the extent it deems necessary, revise the comprehensive plan, adopt the amendments or the new comprehensive plan, and recommend it to the Council in accordance with law. Similarly, after such review, it shall recommend to the Council any amendments it deems desirable to the capital improvement program and any code implementing the plan.

(Prior Code, § 32.063)

### **§ 32.059 ZONING ORDINANCES; PUBLIC HEARINGS.**

No zoning ordinance or amendment shall be adopted by the Council until a public hearing has been held thereon by the Commission upon notice as provided in M.S. § 462.357, Subd. 3, as it may be amended from time to time.

(Prior Code, § 32.064)

## **LIBRARY BOARD**

### **§ 32.070 ESTABLISHMENT.**

A Library Department is established in the city.

(Prior Code, § 32.075)

### **§ 32.071 PURPOSE.**

(A) It is the purpose of this Department to provide and maintain a City Library. It shall also see to it that a librarian is hired and that the city is provided with library services.

(B) The services may be provided by agreements with appropriate city, county, regional, or state agencies.

(Prior Code, § 32.076)

### **§ 32.072 LIBRARY BOARD.**

A Board, consisting of six members, shall be appointed by the Mayor, with the approval of the Council. One of the members shall be a member of the Council who acts as an ex-officio member of the Board. No member (except the ex-officio member) shall serve more than two successive full three-year terms.

(Prior Code, § 32.077)

### **§ 32.073 HECTOR PUBLIC LIBRARY TRUST FUND.**

(A) *Recitals and establishment of Trust Fund.* The Council, in full recognition of the needs of the citizens of the city for a library for use by the public, determines that the establishment of a Public Library Trust Fund for the purpose of receiving and administering funds for library purposes may provide substantial benefits to the citizens of the city and substantially improve the quality of life for the residents of the city in general; and that accordingly, the establishment of the city's Public Library Trust Fund is in the public interest. There is established a perpetual and permanent public charitable trust fund for the city for library purposes to be officially called and known as "The City of Hector Public Library Trust Fund", hereinafter referred to as "the Trust Fund".

(B) *Purpose of the Trust Fund.* The purpose of the Trust Fund is exclusively to receive and to administer funds for library purposes for the benefit of the residents of the city and to that end to take and hold by bequest, devise, gift, grant, purchase, lease, or otherwise any property, real, personal, tangible or intangible, or any undivided interest therein, without limitation as to amount or value to sell, convey, or otherwise dispose of any such property and to invest, reinvest, or deal with the principal or the income thereof in such manner as, in the judgment of the Board of Trustees of said Fund, will best promote the purposes of the Trust Fund.

(C) *Establishment of Board of Trustees.* There shall be and is established a Board of Trustees for the purpose of administering the funds of the Trust Fund in accordance with the purposes herein set forth. The Board of Trustees shall consist of five persons, as follows: the Mayor of the city (ex-officio, who shall vote only in the case of a tie) and four other members appointed by the City Council, all of whom shall be residents of the city, two of whom shall be a members of the Hector Library Board and two of whom shall be members at large. The Mayor shall serve on the Board of Trustees so long as he or she holds such public office, and the four remaining members of the Board of Trustees shall be appointed to initial terms of one, two, three, and four years, respectively, and thereafter each member and his or her successor in office shall serve for four-year terms. No member shall serve on the Board for more than eight consecutive years, the initial terms of the first members excepted. The Council may, by resolution, require that the members be bonded in an amount determined by the Council, in its discretion, at the sole expense of the city.

(D) *Powers of Board of Trustees.* The Board of Trustees shall have the power and authority to do any act or thing incidental to or

connected with the foregoing purposes or in advancement thereof.

(E) *City shall be Trustee of funds; accounting.* The city, a municipal corporation, shall be at all times considered the Trustee of all funds received by the Trust Fund, to be administered by the city by and through the Board of Trustees, as above established. An annual accounting of all funds received by the Trust Fund and paid out therefrom, the income thereon, and the expenses relating to the Trust Fund shall be included in the annual city audit. The city shall at all times be considered the owner of all funds received by the Trust Fund, to be held in trust for the uses and purposes hereinbefore stated and described.

(F) *Limitations on power of Board of Trustees.* The Board of Trustees shall not engage in any activities, acts, or actions which would make any investments of the funds of the Trust Fund in any manner subject to tax under the Internal Revenue Code or any like or corresponding provisions of any subsequent federal tax laws and shall not engage in any activities, acts, or actions which might destroy the tax deductibility of gifts, bequests, or devises by donors to the Trust Fund, it being the intent of the Council that all such bequests, devises, and gifts made and transferred to the Trust Fund by any donor shall be deductible for income tax and death tax purposes.

(G) *Books and records of the Trust Fund; location thereof.* All books, records, statements of account, and any and all other information relating to the Trust Fund and the administration thereof shall be permanently located at the office of the Administrator for the city and shall at all times be open for inspection by the public.

(H) *Board of Trustees may formulate bylaws for the conduct of its business.* The Board of Trustees shall at all times have the power to make, establish, and formulate bylaws and amendments thereto for the efficient conduct of its business as authorized by this section.

(I) *Transfers to Trust Fund; how made.* Gifts, bequests, devises, or other transfers to Trust Funds may be accomplished by making checks, drafts, or bequests payable to "City of Hector Public Library Trust Fund". All such gifts, bequests, and transfers from any third party or parties shall be acknowledged by the Board of Trustees by means of a resolution of the Board accepting such gift or bequests for the purposes hereinbefore set forth.

(Prior Code, § 32.078) (Ord. 159, passed 12-21-1984)

## **ECONOMIC DEVELOPMENT AUTHORITY**

### **§ 32.085 RECITALS.**

The city is authorized pursuant to M.S. §§ 469.090 through 469.1082 (the "EDA Act"), as it may be amended from time to time, to establish an economic development authority for the city, and the Council desires to do so in order to promote certain economic, commercial, housing, and/or industrial development and redevelopment goals and objectives. The city has caused notice of a public hearing on the establishment by the city of an economic development authority to be published in a newspaper of general circulation in the city once each week for two consecutive weeks, and pursuant to such notice, a public hearing on the question has been held by the Council on the date hereof, at which hearing all persons desiring to present their oral or written comments on this proposal were given an opportunity to do so.

(Prior Code, § 32.090) (Ord. 188, passed 8-9-1994; Res. 97-07, passed 7-7-1997)

### **§ 32.086 ESTABLISHMENT OF ECONOMIC DEVELOPMENT AUTHORITY.**

(A) Pursuant to the EDA Act, the Council hereby establishes an economic development authority for the city, to be known as the Hector Economic Development Authority (the "EDA"). The EDA shall be governed by a Board of Commissioners thereof consisting of seven members, at least two of whom must be members of the Council, and the term of each such Commissioner of the EDA that is a City Council member shall coincide with that Commissioner's membership on the City Council.

(B) This resolution ratifies all prior actions taken by the Council with respect to the EDA, including, without limitation, the Council's adoption of ordinance 188 on August 9, 1994, but this resolution also amends and restates any and all prior enabling resolutions of the Council respecting the EDA, including the ordinance.

(C) Furthermore, to the extent of any inconsistency or contradiction between the terms hereof and the terms of any by-laws adopted or other actions taken by the EDA Board of Commissioners (and notwithstanding any contrary limitation imposed on the EDA therein with respect to the full exercise of its statutory powers hereby conferred), the provisions hereof shall apply, govern, and be fully effective. The EDA's exercise of any power to issue bonds or other indebtedness or to levy taxes shall be contingent upon prior Council approval.

(Prior Code, § 32.091) (Ord. 188, passed 8-9-1994; Res. 97-07, passed 7-7-1997)

### **§ 32.087 POWERS.**

The EDA shall have all powers given to an economic development authority pursuant to the EDA Act, as the same may be amended or supplemented.

(Prior Code, § 32.092) (Ord. 188, passed 8-9-1994; Res. 97-07, passed 7-7-1997)

## **COMMUNITY CENTER**

### **§ 32.100 MANAGEMENT.**

(A) There is hereby established a Community Center for the use of the city, its citizens, and other persons or organizations. The Community Center is located at 130 Main Street S. in downtown Hector.

(B) The Community Center is owned by the city and all rules and regulations governing its use shall be as the City Council deems in

the public interest. Any and all persons or organizations using the Community Center shall be subject to this subchapter and other rules and regulations as the City Council may pass from time to time.

(C) The day-to-day management of, and scheduling for, the use of the Community Center shall be the responsibility of the City Administrator. All persons desiring to use the Community Center must make application with the City Administrator prior to use. In case of scheduling conflicts, use will be on a first-come, first-served basis, subject to the priority provisions contained herein.

(Prior Code, § 32.105) (Ord. 220, passed - -)

### **§ 32.101 CLASSIFICATION OF USERS.**

All users shall be classified under three classifications, defined as follows:

(A) City class: any use held under the auspices of the City of Hector;

(B) Non-profit organization: any non-profit organization which is a corporation, fund, foundation, trust, club, or association organized exclusively for literary, charitable, educational, artistic, pleasure, social, or recreational purposes, if no part of the net income of any such organization inures to the benefit of any private member, stockholder, or individual; and

(C) Other class: all persons, corporations, associations, clubs, or other entities not included in city class or non-profit organization class.

(Prior Code, § 32.106) (Ord. 220, passed - -)

### **§ 32.102 PRIORITY OF USE.**

(A) It is hereby deemed to be in the best interests of the community that the following priority be assigned between user classifications for use of the Community Center:

(1) Priority one: city class; and

(2) Priority two: non-profit organization class and other class.

(B) Priority one users may schedule usage at any time up to three days prior to the day of use, which may cause lower priority users to forfeit an already scheduled date.

(C) Priority two users may schedule blocks of time to be reserved for their use on an annual basis. The blocks must be reserved for use prior to January 1 of each succeeding year. The City Administrator is allowed discretion in limiting the number and length of the blocks so desired reserved. Any usage time desired not so reserved shall be subject to the first-come, first-served rule.

(D) Priority two users shall be on a first-come, first-served basis, subject to priority one classification.

(E) If any user's time is canceled due to a priority situation, there shall be a full refund of any amounts paid. The city shall not be liable for any losses occurring as a result of a cancellation due to priorities.

(Prior Code, § 32.107) (Ord. 220, passed - -)

### **§ 32.103 FEE STRUCTURE.**

(A) City class: free of charge.

(B) Non-profit organization class: free of charge.

(C) Other class: \$45 per day.

(D) Additionally, a deposit for cleaning, damage, and return of keys for the facility shall be required of all classes except the city class. The deposit shall be in the sum of \$25. Block users under non-profit organization class may petition the City Council for a special rate for a damage deposit. The rate shall be in the sole discretion of the Council. All users shall be responsible for any cleaning and repairs after use so that the premises are in the same condition as before the use. The Administrator or his or her agent will be responsible for making all decisions concerning the cleanliness and repair of the premises and the refund of the deposit.

(Prior Code, § 32.108) (Ord. 220, passed - -)

### **§ 32.104 RESTRICTIONS ON USE.**

(A) No intoxicating beverages or non-intoxicating malt beverages shall be allowed in the Community Center.

(B) No smoking shall be allowed in the Community Center.

(C) Users shall not violate any federal law, state law, or city ordinance in the Community Center.

(D) All activities must have adult supervision.

(E) The use of decorations, such as scotch tape, tacks, nails, or staples for hanging any decoration is not allowed on any wall or ceiling surface. Masking tape is an acceptable means of securing decorations.

(F) All groups or users shall be responsible to immediately cleanup the Community Center upon the premises.

(G) A complete inspection of the Center will occur the following day or as soon as possible after the use. If the City Administrator or

his or her assigns determine that it is adequate for future use without need for additional cleaning or repairs, the damage deposit check will be returned uncashed. If it is not, any costs for janitorial services provided by the city shall be withheld from the user's damage deposit check.

(Prior Code, § 32.109) (Ord. 220, passed - -) Penalty, see § 32.999

### **§ 32.105 LIABILITY.**

(A) All users of the Community Center shall hold the city harmless from any liability for injuries to property or persons arising from the use of the Community Center. Users include the applicant as well as any guest, invitee, or agent.

(B) All users of the Community Center shall reimburse the city for any damages to the Community Center arising from their use thereof. In addition to any individual who commits the property damage, the person who signed the application shall also be held liable for the property damage.

(Prior Code, § 32.110) (Ord. 220, passed - -)

### **§ 32.999 PENALTY.**

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) Violation of § 32.043 shall result in a misdemeanor.

(Prior Code, § 32.048)

(C) Violation of §§ 32.100 to 32.105 shall be a petty misdemeanor punishable by a fine of \$100. In addition to an individual who commits a crime, the person who signed the application shall also be held responsible for any acts committed in violation of §§ 32.100 to 32.105. Sections 32.100 to 32.105 shall not preclude the enforcement of any federal, state, municipal law, or ordinance. Failure to comply with guidelines or rules established by the City Council regulating the use of public facilities may cause the forfeiture of future use privileges.

(Prior Code, § 32.111)

(Ord. 220, passed - -)

## **CHAPTER 33: CITY POLICIES**

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Section

### *General Provisions*

33.01 Payment for city services or products

33.02 Election date

33.03 Application of state laws

### *Employment Background Checks*

33.15 Applicants for city employment

33.16 Applicants for city licenses

## **GENERAL PROVISIONS**

### **§ 33.01 PAYMENT FOR CITY SERVICES OR PRODUCTS.**

(A) If anyone pays a bill for services or products the city provides with a check that is returned for non-sufficient funds (NSF), that person or entity shall be charged a fee of \$15 for each time a check is returned to the city for NSF.

(B) Any person or entity who gives a NSF check to the city will be required to pay the city in cash or cash equivalent for the above stated fees along with the outstanding amount that person or entity owes the city.

(Prior Code, § 33.01) (Ord. 197, passed 8-14-1995)

### **§ 33.02 ELECTION DATE.**

The regular city election of the city shall be held on the first Tuesday after the first Monday in November of each even year.

(Prior Code, § 33.02) (Ord. 122, passed 8-11-1964)

### **§ 33.03 APPLICATION OF STATE LAWS.**

The provisions of the Government Data Practices Act, M.S. Ch. 13, the Opening Meeting Law, M.S. Ch. 13D, and the laws relating to

Gifts to Local Officials, M.S. § 471.895, as these laws may be amended from time to time, apply to the City Council and all boards and commissions of the city and their members.

## **EMPLOYMENT BACKGROUND CHECKS**

### **§ 33.15 APPLICANTS FOR CITY EMPLOYMENT.**

(A) *Purpose.* The purpose and intent of this subchapter is to establish regulations that will allow law enforcement access to the state's computerized criminal history information for specified non-criminal purposes of employment background checks for the positions described below.

(B) *Criminal history employment background investigations.* The city's Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed.

(1) *Employment positions.* All regular part-time or full-time employees of the city and other positions that work with children or vulnerable adults.

(2) *State information system.* In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the state's Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be released by the Police Department to the hiring authority, including the City Council, the City Administrator, or other city staff involved in the hiring process.

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

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

(Ord. 31.03, passed 12-10-2012)

### **§ 33.16 APPLICANTS FOR CITY LICENSES.**

(A) *Purpose.* The purpose and intent of this section is to establish regulations that will allow law enforcement access to state's computerized criminal history information for specified non-criminal purposes of licensing background checks.

(B) *Criminal history license background investigations.* The city's Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following licenses within the city:

(C) *City licenses.*

- (1) Liquor establishments;
- (2) Peddler licenses; and
- (3) Independent contractors.

(D) *State information system.* In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the state's Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be released by the Police Department to the licensing authority, including the City Council, the City Administrator, or other city staff involved in the license approval process.

(E) *Consent to investigate.* Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Chapter 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in M.S. § 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

- (1) The grounds and reasons for the denial;
- (2) The applicant complaint and grievance procedure set forth in M.S. § 364.06;
- (3) The earliest date the applicant may reapply for the license; and

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

(Ord. 31.03, passed 12-10-2012)

## CHAPTER 34: EMERGENCY MANAGEMENT

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### Section

- 34.01 Policy and purpose
- 34.02 Definitions
- 34.03 Establishment of emergency management organization
- 34.04 Powers and duties of Director
- 34.05 Local emergencies
- 34.06 Emergency regulations
- 34.07 Emergency management a government function
- 34.08 Participation in labor disputes or politics
  
- 34.99 Penalty

### § 34.01 POLICY AND PURPOSE.

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

- (A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters;
- (B) To provide for the exercise of necessary powers during emergencies and disasters;
- (C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions; and
- (D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

(Prior Code, § 34.01)

### § 34.02 DEFINITIONS.

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

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

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

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

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

**EMERGENCY MANAGEMENT ORGANIZATION.** The staff responsible for coordinating city-level planning and preparation for

disaster response. This **ORGANIZATION** provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

(Prior Code, § 34.02)

### **§ 34.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

(A) There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called “the Director”. The Director shall be appointed by the Mayor with approval of the City Council for an indefinite term and may be removed by him or her at any time.

(B) The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses.

(C) The Director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the Mayor.

(Prior Code, § 34.03)

### **§ 34.04 POWERS AND DUTIES OF DIRECTOR.**

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

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

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

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

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

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

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

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

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

(Prior Code, § 34.04)

### **§ 34.05 LOCAL EMERGENCIES.**

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

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

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

(Prior Code, § 34.05) Penalty, see § 34.99

## **§ 34.06 EMERGENCY REGULATIONS.**

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

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

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

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

(Prior Code, § 34.06) Penalty, see § 34.99

## **§ 34.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.**

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

(Prior Code, § 34.07)

## **§ 34.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.**

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

(Prior Code, § 34.08)

## **§ 34.99 PENALTY.**

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

(Prior Code, § 34.99)

# **TITLE V: PUBLIC WORKS**

Chapter

**50. GARBAGE AND REFUSE**

**51. WATER AND SEWER SERVICE**

**52. WATER SERVICE**

**53. SEWER SERVICE**

## **CHAPTER 50: GARBAGE AND REFUSE**

Section

*General Provisions*

- 50.01 Purpose
- 50.02 Definitions
- 50.03 Garbage and rubbish in residential and multiple-family residential districts
- 50.04 Garbage and rubbish in commercial and industrial districts
- 50.05 Rates and charges
- 50.06 Billing
- 50.07 Payment
- 50.08 Refuse collection schedule
- 50.09 Collection vehicles
- 50.10 Manufactured home parks
- 50.11 Construction dumpsters/dumpsters

### *Regulations*

- 50.25 Unauthorized accumulations
- 50.26 Refuse in streets and the like
- 50.27 Scattering of refuse
- 50.28 Burying of refuse; composting
- 50.29 Disposal required
- 50.30 Regulatory authority

### *Contract for Refuse Collection*

- 50.45 Council to let contract
- 50.46 Terms
- 50.47 Liability insurance
- 50.48 Contract collector
  
- 50.99 Penalty

## **GENERAL PROVISIONS**

### **§ 50.01 PURPOSE.**

An ordinance establishing standards and procedures governing garbage, refuse, and dumpsters in an effort to keep the streets within the city safe and clean; all in order to promote the health, welfare, and safety of the public, and to protect the environment.

(Ord. passed - -2018)

### **§ 50.02 DEFINITIONS.**

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

**CONSTRUCTION DUMPSTER** or **DUMPSTER.** Any portable container used or designed for collection of, transportation of, or disposal of construction/demolition materials, or the like. **CONSTRUCTION DUMPSTER** shall include, but is not limited to, “roll off” boxes or containers, and portable storage containers.

**GARBAGE.** Organic waste resulting from the preparation of food and decayed and spoiled food from any source.

**HOME OCCUPATION.** Any occupation which is clearly incidental to the principal use of the premises, is conducted by a resident occupant, and does not change the character of the principal use.

**RECYCLABLES.** Includes paper, plastic, tin cans, aluminum, motor oil, glass, and other metal goods, each separated or otherwise prepared so as to be acceptable to the recycling center where they are to be deposited.

**RECYCLING CENTER.** Premises used for the receipt, storage, or processing of recyclables and approved as such by the Council when the premises are in the city or by the governing body of the local government unit having jurisdiction when the premises are outside the city.

**REFUSE.** This term includes garbage and rubbish.

**RUBBISH.** Inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, and the like.

(Ord. passed - -2018)

### **§ 50.03 GARBAGE AND RUBBISH IN RESIDENTIAL AND MULTIPLE-FAMILY RESIDENTIAL DISTRICTS.**

(A) All owners, occupants, and persons in control or possession of a structure located in the residential or multiple-family residential districts as defined in the city zoning code shall care for garbage and rubbish in the following manner.

(1) *Storage.* For the storage of garbage and rubbish each person shall use city approved volume based carts. Extra refuse may be disposed of by arrangements directly with the contractor.

(2) *Placement.* Carts shall be placed at curbside.

(3) *Use of containers.* Refuse shall be drained of liquid and household garbage shall be wrapped before being deposited in a cart. Highly inflammable or explosive material shall not be placed in containers.

(4) *Proper disposal.* Proof of environmentally sound disposal of all garbage and rubbish is required by the city for all residential properties.

(B) All owners, occupants, and persons in control or possession of a structure located in the residential or multiple-family residential districts as defined in the city zoning code and is running a home occupation in the structure shall care for garbage and rubbish in the following manner.

(1) *Storage.* For the storage of garbage and rubbish each person shall use the city approved volume based carts or a two yard dumpster.

(2) *Placement.* If using the cart system, following the same placement rules as in division (A)(2) above. If using a dumpster, the dumpster must be located off the alley where it is available and in a screened in fence area. The rules as in § 50.11(A) must be followed.

(Ord. passed - -2018)

### **§ 50.04 GARBAGE AND RUBBISH IN COMMERCIAL AND INDUSTRIAL DISTRICTS.**

All owners, occupants, and persons in control or possession of a structure located in the commercial or industrial districts, as defined in the city zoning code, shall remove or cause to be removed by a licensed garbage collector all garbage and rubbish in an environmentally sound manner.

(Ord. passed - -2018)

### **§ 50.05 RATES AND CHARGES.**

The owner or occupant of any premises served by the city refuse collection contractor shall pay to the collector the rates approved by the city in an agreement.

(Ord. passed - -2018)

### **§ 50.06 BILLING.**

The contractor will bill households and commercial refuse generators for services provided pursuant to an agreement approved by the city, and all federal, state, and local taxes, assessments, user fees, and surcharges, at no administration charge to customers. The contractor will, at no cost to the city, receive and process all customer calls for service or changes in the delivery service. The city shall by ordinance enforce the exclusive right of contractor under the agreement.

(Ord. passed - -2018)

### **§ 50.07 PAYMENT.**

The contractor shall annually certify all unpaid accounts to the city. In accordance with M.S. § 443.015, the city shall annually levy an assessment equal to all unpaid costs as of September 1 of each year, against each lot or parcel of land within the city for which charges are unpaid. The assessment shall include a penalty of 10% of the amount thereof and shall bear interest at a rate of 6% per annum. The assessments shall be certified to the County Auditor, and shall be collected and remitted to the city in same manner as assessments for local improvements. The city shall in turn remit the charges collected to the contractor, less the 10% penalty as provided, which shall be retained by the city.

(Ord. passed - -2018)

### **§ 50.08 REFUSE COLLECTION SCHEDULE.**

Collections shall be done on a weekday in accordance with a schedule of pickups to be established by the contractor and approved by the city in an agreement.

(Ord. passed - -2018)

### **§ 50.09 COLLECTION VEHICLES.**

Every vehicle used for hauling garbage shall be covered, leak proof, durable, and of easily cleanable construction. Every vehicle used for hauling refuse shall be sufficiently airtight and so used as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution, or insect-breeding and shall be maintained in good repair.

(Ord. passed - -2018)

#### **§ 50.10 MANUFACTURED HOME PARKS.**

All costs associated with refuse collection and disposal incurred by any occupant of a manufactured home located within the designated manufactured home parks shall be the responsibility of the manufactured home park owner.

(Ord. 184, passed 6-14-1994; Ord. passed - -2018)

#### **§ 50.11 CONSTRUCTION DUMPSTERS/DUMPSTERS.**

All entities/companies owning and emptying a dumpster within city limits must be licensed to operate within the city.

##### **(A) Rules.**

- (1) Dumpsters must be well maintained and in good working condition, displaying the name or logo and telephone number of the owner of the dumpster, and be suitably supported at each contact point to prevent damage to paved surfaces.
- (2) Dumpsters must be covered when materials inside are easily airborne, pose a hazard, emit an odor, or are otherwise offensive.
- (3) Debris must be placed inside the dumpster, not alongside or on top of it.
- (4) All dumpsters are required to be emptied when full. For the purpose of this chapter, **FULL** is defined as when the content of the dumpster reach an average level of one foot below the top edge of the dumpster sides. Any dumpster which has reached the full status and is not emptied within seven calendar days shall be considered in violation of this chapter.
- (5) Cleaning dumpsters on the street or sidewalk is not permitted.
- (6) Dumpsters may remain in place for 60 days. A 30-day extension may be allowed with written permission from the city.

##### **(B) Dumpsters in the public right-of-way.**

- (1) A dumpster placed in the public right-of-way must have a flasher or reflector on the outside corner facing traffic at all times. Where traffic may approach from either side, the dumpster must have a flasher or reflector on the outside corner on both sides. Type I or Type II barricades can be used as an alternate to flashers and reflectors.
- (2) Dumpsters shall not block a public sidewalk or be placed in a location that restricts the “sight lines” of an intersection. “Sight lines” will be determined by the Streets Supervisor.
- (3) Dumpsters placed in the public right-of-way for construction, remodeling, or demolition projects shall be removed immediately upon the completion of the project. No dumpster shall be placed in the public right-of-way for more than 30 days. An extension of the 30-day rule may be allowed with written permission from the city.
- (4) No dumpster shall be placed on streets, sides of streets, or areas designated as “No Parking”. Dumpsters shall not be placed in public parking lots or parks without prior written permission from the city.
- (5) The owner and/or the user of a dumpster on a public right-of-way is/are responsible for any public property, street, curb, and gutter, or public infrastructure damage.
- (6) No dumpster shall be placed in the public right-of-way during the **WINTER SNOW SEASON**, defined for the purpose of this chapter as the period from November 1 to April 1.

##### **(C) Denial of dumpster use.**

- (1) The City Council may deny the use of dumpsters in the public right-of-way if the dumpster is too wide to allow public safety vehicles through, or due to any other traffic concerns.
- (2) The City Council may also deny the use of dumpsters to protect public health or safety concerns.

(Ord. passed - -2018) Penalty, see § 50.99

## **REGULATIONS**

#### **§ 50.25 UNAUTHORIZED ACCUMULATIONS.**

Any unauthorized accumulation of refuse on any premises is a nuisance and prohibited.

(Ord. passed - -2018) Penalty, see § 50.99

#### **§ 50.26 REFUSE IN STREETS AND THE LIKE.**

(A) No person shall place or cause to be deposited any refuse in any street, avenue, alley, vacant lot, or vacant part of any lot, or upon any yard or other ground or place appurtenant to any building or structure in the city or public place or upon any private property, except

in proper containers for collection.

(B) No person shall throw or deposit refuse in any stream or other body of water.

(C) No person shall burn garbage or rubbish in the city.

(Ord. passed - -2018) Penalty, see § 50.99

#### **§ 50.27 SCATTERING OF REFUSE.**

No person shall deposit anywhere within the city any refuse in such manner that it may be carried or deposited by the elements upon any public or private premises within the city.

(Ord. passed - -2018) Penalty, see § 50.99

#### **§ 50.28 BURYING OF REFUSE; COMPOSTING.**

No person shall bury any refuse in the city except in an approved sanitary landfill, but leaves, grass clippings, and easily biodegradable, nonpoisonous garbage may be composted on the premises where such refuse has been accumulated. Garbage must be composted only in a rodent-proof structure and in an otherwise sanitary manner and after the Council gives its approval to such composting after it finds that the composting will be done in accordance with these standards.

(Ord. passed - -2018) Penalty, see § 50.99

#### **§ 50.29 DISPOSAL REQUIRED.**

(A) Every person shall, in an environmentally sound manner, dispose of refuse that may accumulate upon property owned or occupied by him or her.

(B) Garbage shall be collected, or otherwise lawfully disposed of, at least once each month, unless sanitary requirements make more frequent collections necessary.

(Ord. passed - -2018)

#### **§ 50.30 REGULATORY AUTHORITY.**

The City Council may make, by resolution, such administrative regulations and rules as may be necessary and proper to regulate, enforce, and carry out the proposes, intent, requirements, and provisions of this chapter.

(Ord. passed - -2018)

### **CONTRACT FOR REFUSE COLLECTION**

#### **§ 50.45 COUNCIL TO LET CONTRACT.**

(A) Subject to the provisions of this subchapter, the Council shall grant by contract the authority to collect and dispose of all refuse originating within the city.

(B) The Administrator shall prepare specifications for advertising for such contract and he or she shall see that when let the contract is executed in accordance with its terms and this subchapter.

(C) If the Council deems it advisable, it may divide the city into districts and let a separate contract for the collection of refuse in each district.

(Ord. passed - -2018)

#### **§ 50.46 TERMS.**

The contract shall be made for a term of up to five years, subject to extension by mutual consent for any additional years and to terminate during the period of the contract as provided in the contract.

(Ord. passed - -2018)

#### **§ 50.47 LIABILITY INSURANCE.**

Before the contract shall be issued, the contractor shall agree to hold the city harmless and shall agree to defend and indemnify the city, and the city's employees and agents, for any claims, damages, losses, and expenses related to the work under the contract. The city shall be named as an additional insured under that insurance for the services provided under the contract. The contractor's contract of insurance shall be the primary insurance for the city and the contractor or insurance company shall provide a certificate of insurance which verifies the existence of the insurance required, including provisions to hold the city harmless and defend and indemnify the city. The insurance shall provide coverage up to \$300,000 for any single claim and \$1,000,000 for any number of claims in a single occurrence.

(Ord. passed - -2018)

#### **§ 50.48 CONTRACT COLLECTOR.**

(A) No person shall collect refuse within the city except a person holding a contract with the city to do so.

(B) No person shall permit refuse to be picked up from his or her premises except by such contractor.

(Ord. 50, passed 8-9-2010; Ord. passed - -2018) Penalty, see § 50.99

**§ 50.99 PENALTY.**

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) Any violation of this ordinance is a misdemeanor.

(1) The city may remove or have a container removed from the public right-of-way, if the container is in violation of this chapter.

(2) The owner of the container, or if the owner cannot be determined, the person placing it in the public right-of-way shall pay all costs, fees, penalties, or other expenses incurred by the city in removal, storage fees, and disposal of any container and its contents.

(3) If the container is not claimed within 30 days by its owner or person responsible for placing it in the public right-of-way, it may be disposed of as abandoned property, but disposal shall not diminish the responsibility of the owner or the person responsible for placing the container in the public right-of-way to pay all amounts due.

(4) The city shall not release a container from storage until all amounts due under this section have been paid.

(Ord. passed - -2018)

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## **CHAPTER 51: WATER AND SEWER SERVICE**

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Section

51.01 Water and Sewer Division

51.02 Use of water or sewer system restricted

51.03 Applications for service

51.04 Charges for service connections

51.05 Accounting, billing, and collecting

51.06 Installation for water and sewer service and equipment

**§ 51.01 WATER AND SEWER DIVISION.**

There is established a Water and Sewer Division, hereinafter referred to as “the Division”, which shall be under the supervision of the Public Works Director. The Division shall be responsible for the management, maintenance, care, and operation of the water works and sanitary sewage of the city.

(Prior Code, § 51.01)

**§ 51.02 USE OF WATER OR SEWER SYSTEM RESTRICTED.**

No person shall make or use any water or sewer service installation connected to the city water or sewer system except pursuant to application and permit as provided in this chapter. No person shall make or use any such installation contrary to the regulatory provisions of this chapter.

(Prior Code, § 51.02)

**§ 51.03 APPLICATIONS FOR SERVICE.**

(A) *Procedure.* Application for a water or sewer service installation and for water service shall be made to the Public Works Director on forms prescribed by the Public Works Director and furnished by the city at the Administrator’s office. By signature, the application shall agree to conform to this chapter and to rules and regulations that may be established by the city as conditions for use of water.

(B) *Fees or deposit.* Application for a service installation shall be made by the owner of the property to be served or by the owner’s agent. The applicant shall at the time of making application pay to the city the amount of the fees or deposit required for the installation of the service connection as provided in this chapter. When a water service connection has been installed, application for water service may be made either by the owner or the owner’s agent or by the tenant or occupant of the premises.

(Prior Code, § 51.03)

**§ 51.04 CHARGES FOR SERVICE CONNECTIONS.**

(A) *Restrictions.* Utility connections must be made and determined to be operational prior to November 1 or after April 1. Connections made during the winter could still be attempted if the owner agrees to pay for any additional expense incurred; however,

the city would make no guarantee that such connections would be possible.

(B) *Permit and fee.* No connection shall be made to the city water or sanitary sewer system without a permit received from the Public Works Department and made available from the Administrator. The fee for each such permit shall be established by Council resolution. These fees shall be in addition to any fees required under divisions (C), (D), and (E) below.

(C) *Connection fees.* When a connection requires installation of a service line from the main to the property line, the applicant for a permit shall pay to the city an amount not less than the cost of making the necessary connections, taps, and installation of pipe and appurtenances to provide service to the property and the necessary street repairs.

(D) *Certification.* No permit shall be issued to connect with any water or sanitary sewer main unless the Public Works Department certifies to the truth of one of the following or the payment required under division (E) below is made:

(1) The lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment have been or will be commenced in due course;

(2) The cost of construction of the main has been paid by the developer or builder platting the lot or tract; or

(3) If neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the city.

(E) *Additional connection fee.* If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main attributable to the property upon the same basis as any assessment previously levied against other property for the main. The determination shall be made by the Public Works Department. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated on the basis of frontage.

(F) *Short term service.* Services for less than six months will be subject to a \$15 per call connection or disconnection charge.

(Prior Code, § 51.04)

#### **§ 51.05 ACCOUNTING, BILLING, AND COLLECTING.**

(A) *Accounts in name of owner.* All accounts shall be carried in the name of the owner or occupant of each building or housing served. The owner shall be liable for service supplied to the owner's property, whether occupied by the property owner or not, and any charges unpaid shall be a lien upon the property.

(B) *Bills for service.* Water, sewer, refuse, and landfill service charges shall be billed together, as applicable to each account. Bills shall be mailed to the customers on the twentieth of each month and specify the water consumed and the sewer, water, refuse, and landfill charges in accordance with the rates set by resolution of the City Council.

(C) *Delinquent accounts.*

(1) All charges for water, sewer, refuse, and county landfill shall be considered delinquent after the first of the month, unless the first of the month is a weekend day or a holiday. Then the delinquent date shall be the closest date following the first of the month after that weekend date or holiday. A late payment penalty of 10% shall be assessed on all accounts with a past due balance. An unpaid balance with \$2 as a minimum shall not have a late payment penalty assessed.

(2) When accounts have remained unpaid for 90 days and satisfactory arrangements for payment have not been made, the Public Works Department may, after the procedural requirements of division (D) below have been complied with, discontinue service to the delinquent customer. When service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent bills and a fee of \$30. Delinquent accounts shall be certified to the City Administrator who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective property's service. The assessment roll shall be delivered to the Council for adoption on or before September 1 of any year. The Council shall levy an assessment equal to the unpaid charge as of that date plus interest at the rate of 8% per annum from that date and a penalty of 10%. The City Administrator shall certify the assessment to the County Auditor for collection in the same manner for assessments for local improvements. The action is optional and may be subsequent to taking legal action to collect delinquent accounts.

(D) *Procedure for discontinuance of service.* Service shall not be discontinued under division (C) above or for a violation of rules and regulations affecting utility service until notice and an opportunity for a hearing have first been given the occupant of the premises involved. The notice shall be personally served or certified by mail and shall state that if payment is not made before a day stated in the notice, but not less than five working days after the date on which the notice is given, the service to the premises will be discontinued. The notice shall also state that the occupant may, before such date, demand a hearing on the matter, in which case the service will not be cut off until after the hearing is held. If the customer requests a hearing before the date specified, a hearing shall be held on the matter by the Public Works Director at least one week after the date on which the request is made. If as a result of the hearing the Public Works Director finds that the amount claimed to be owing is actually due and unpaid and there is no legal reason why the water supply of the delinquent customer may not discontinue in accordance with this chapter, the city may discontinue service. The notice shall be delivered 60 days from the first day account becomes delinquent. No service of a residential customer shall be disconnected if the disconnection affects the primary heat source for the residential unit when the disconnection would occur during the period between October 15 and April 15, the customer has declared inability to pay on forms provided by the city, the household income of the customer is less than 185% of the federal poverty level as documented by the customer to the city, and the customer's account is current for the billing period immediately prior to October 15 or the customer has entered into a payment schedule and is reasonably current with payments under the schedule. The city shall, between August 15 and October 15 of each year, notify all residential customers of these provisions.

(Prior Code, § 51.05) (Ord. 174, passed 6-8-1992; Ord. 205, passed 3-10-1997)

### § 51.06 INSTALLATION FOR WATER AND SEWER SERVICE AND EQUIPMENT.

The following shall be the minimum requirement when installing water and sewer service lines or modifying existing property water and sewer systems in the city, with the property owner being liable for their contractor adhering to these requirements.

(A) A city application for service form must be completed prior to any water or sewer service installation, either by the contractor or the property owner. Precise location coordinates and/or as-built drawings will be provided to the city by the contractor.

(B) The contractor will furnish and install a coated, solid copper tracer wire on all non-conductive water and sewer service lines in the trench alongside the pipe. Wire color will be blue for water and green for sewer.

(C) The tracer wire must be 12 gauge minimum and run continuously without splices for the full length of the service line, from the building to water or sewer main. If splicing is necessary, a direct buy splice kit is required.

(D) The tracer wire shall daylight at the point of entry at the foundation of the building through PVC conduit and a blank box as a future contact point to locate the service.

(E) Tracer wire will be installed on all new water main installations in the street/roadway and will come to the surface at every fire hydrant for termination.

(F) Depending on circumstances of a specific installation, the Water/Sewer Department may also require that tracer wire be run to curb boxes, cleanouts, or fire hydrants.

(Ord. 231, passed 5-14-2007)

## CHAPTER 52: WATER SERVICE

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### Section

#### *General Provisions*

- 52.01 Meters
- 52.02 Plumbing regulations
- 52.03 Water rates
- 52.04 Applications for service

#### *Regulations*

- 52.15 Discontinuance of service
- 52.16 Supply from one service
- 52.17 Turning on water, tapping mains
- 52.18 Repair of leaks
- 52.19 Use of fire hydrants
- 52.20 Private water supply
- 52.21 Restricted hours
- 52.22 Permitting use by others

### GENERAL PROVISIONS

#### § 52.01 METERS.

(A) *Meters provided.* The city shall provide a water meter for each water connection hereafter installed and for any connection not having a meter upon the passage of this section.

(B) *Fee.* A water meter fee equal to no less than the cost of a suitable meter shall be paid by the owner of the property when a meter is furnished by the city as provided in this section.

(C) *Maintenance of privately owned meters.* The cost of repairs, including material and labor, made by the city to a privately owned meter shall be paid by the water customer using such meter.

(Prior Code, § 52.01)

#### § 52.02 PLUMBING REGULATIONS.

(A) *Service pipes.* Every service pipe shall be laid with sufficient bend to allow not less than one foot of extra length and in such

manner as to prevent rupture by settlement. The service pipe shall be placed not less than six feet below the surface and be so arranged as to prevent rupture by freezing. A shut-off or other stop cork with waste valve of the size and strength required shall be placed close to the inside wall of the building and be well protected from freezing. Copper tubing shall be used for all services of two inches or less. Joints on copper tubing shall be as few as possible and not more than one joint shall be used for a service up to 70 feet in length. Each joint shall be left uncovered until inspected by the city. Every service over two inches long shall be cast iron, or whatever is acceptable in accordance with the State Plumbing Code. Connections with the main for domestic supply shall be at least three-fourths inch.

(B) *Water meter setting.* Every water meter shall be installed in accordance with the following provisions.

(1) The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop and waste valve shall be no less than 12 inches nor more than 24 inches above the floor.

(2) The top of the meter shall not be over three feet above the finished floor line. The meter shall be set not more than 12 inches horizontally from the inside line of the basement wall unless a different position is approved by the Public Works Department. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.

(3) Each meter installation shall have a stop and waste valve on the street side of the meter. In no case shall less than 12 inches nor more than 24 inches of pipe be exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter.

(4) The water pipe connecting the main shall not exceed two feet under the basement wall to the water meter connection.

(5) Meter setting devices for five-eighths inch, three-fourths inch, and one inch meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the stop and waste valve on the building site.

(C) *Location of stop boxes.* Curb stop boxes shall be installed generally where desired by the owners of occupied properties, but they shall be placed as near as possible to the curb if on a street or within one foot of the alley line if the main is located in the alley. They shall be installed at an approximate depth of six feet below the established grade and shall be left in an accurate vertical position when back-filling is completed.

(Prior Code, § 52.02)

### **§ 52.03 WATER RATES.**

Water rate service charges and rate changes shall be by resolution.

(Prior Code, § 52.03) (Ord. 207, passed 5-10-1999)

### **§ 52.04 APPLICATIONS FOR SERVICE.**

(A) *Procedure.* Application for obtaining water directly from the water tower shall be made to the Public Works Director or forms prescribed by the Public Works Director and furnished by the city at the Administrator's office. By signature, the applicant shall agree to conform to this chapter and to rules and regulations that may be established by the city as conditions for use of water.

(B) *Application fee.* An application fee of \$20 shall accompany each application submitted and shall remain in effect through December 31 of the same year.

(C) *Requirements.* Each water user obtaining water directly from the water tower shall be required to complete the date, consumption amount, and signature on the application form each time water is obtained.

(D) *Rates.* Each water user of the water tower shall pay a rate determined by the City Council by resolution from time to time. The total gallon consumption shall be billed to the applicant on an annual basis in the month of December.

(Prior Code, § 52.04) (Ord. 166A, passed 5-9-1989)

## **REGULATIONS**

### **§ 52.15 DISCONTINUANCE OF SERVICE.**

The city may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided in § 51.05(D), for nonpayment of charges or for violation of rules and regulations affecting utility service.

(Prior Code, § 52.20)

### **§ 52.16 SUPPLY FROM ONE SERVICE.**

No more than one house or building shall be supplied from one service connection except by special permission of the Council. Whenever two or more parties are supplied from one pipe connecting with a service main, each building or part of building separately supplied shall have a separate stop box and a separate meter.

(Prior Code, § 52.21)

### **§ 52.17 TURNING ON WATER, TAPPING MAINS.**

No person except an authorized city employee shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply or system or insert a stop cork or other appurtenance therein without a city permit.

(Prior Code, § 52.22) Penalty, see § 10.99

### **§ 52.18 REPAIR OF LEAKS.**

The consumer or owner shall be responsible for maintaining the service pipe from the curb box into the building served. If the consumer or owner fails to repair any leak in such service pipe within 24 hours after notice by the city, the city may turn the water off. The water shall not then be turned on again until an amount determined by Council resolution from time to time has been paid to the city. When the waste of water is great or damage is likely to result from the leak, the city shall turn the water off immediately upon the giving of notice if repair is not commenced immediately.

(Prior Code, § 52.23)

### **§ 52.19 USE OF FIRE HYDRANTS.**

No person other than an authorized city employee or city firefighter shall operate a fire hydrant or interfere in any way with the city water system without first obtaining authority to do so from the Public Works Department.

(Prior Code, § 52.24)

### **§ 52.20 PRIVATE WATER SUPPLY.**

No water pipe of the city water system shall be connected with any pump, well, or tank that is connected with any other source of water supply. When any such connection is found, the Public Works Department shall notify the owner to sever the connection and, if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the city system is permitted, the Public Works Department shall ascertain that no cross-connection will exist when the new connection is made.

(Prior Code, § 52.25)

### **§ 52.21 RESTRICTED HOURS.**

Whenever the Council determines that a shortage of water supply threatens the city, it may, by resolution, limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. After publication of the resolution or two days after mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution and any customer who does so shall be charged \$100 for each day of violation and the charge shall be added to the customer's next water bill. If the emergency requires immediate compliance with terms of the resolution, the Council may provide for the delivery of a copy of the resolution to the premises of each customer, and any customer who has received such notice and thereafter uses or permits water to be used in violation of the resolution shall be subject to the charge provided above. Continued violation shall be cause for discontinuance of water service.

(Prior Code, § 52.26)

### **§ 52.22 PERMITTING USE BY OTHERS.**

No person shall permit city water to be used for any purpose except upon the person's own premises except in an emergency and then only if written permission is first obtained from the Public Works Department. Anyone wishing to obtain water from a hydrant for construction purposes shall make application to the Public Works Department for such services.

(Prior Code, § 52.27) Penalty, see § 10.99

## **CHAPTER 53: SEWER SERVICE**

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### Section

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- 53.001 Definitions
- 53.002 Control by authorized representative
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- 53.004 Use of public sewers required
- 53.005 Powers and authority of inspectors

#### *Private Wastewater Disposal*

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- 53.021 Permit
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**GENERAL PROVISIONS**

**§ 53.001 DEFINITIONS.**

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

**ACT.** The Federal Water Pollution Control Act, also referred to as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.

**BOD<sub>5</sub> or BIOCHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20°C and as expressed in terms of milligram per liter (mg/l).

**BUILDING DRAIN.** The point of a building which conveys wastewater to the building sewer, beginning immediately outside the building wall.

**DEBT SERVICE CHARGE.** A charge to users of the wastewater treatment facility for the purpose of repaying capital costs.

**EQUIVALENT RESIDENTIAL UNIT (ERU).** A unit of wastewater volume of 100 gallons per day at a strength not greater than

NDSW.

**INDUSTRIAL USER.** This term includes the following:

(1) Any entity, as defined in the Standard Industrial Classification Manual (latest edition) as categorized, that discharges wastewater to the public sewer, including:

- (a) Division A: Agriculture, Forestry, and Fishing;
- (b) Division B: Mining;
- (c) Division D: Manufacturing;
- (d) Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewers; and
- (e) Division I: Services.

(2) Any user whose discharges, single or by interaction with other wastes, contaminate the sludge of the wastewater treatment system, injure or interfere with the treatment process, create a public nuisance or hazard, have an adverse effect on the waters receiving wastewater treatment plant discharges, exceed NDSW limitations, or exceed normal residential unit volumes of wastewater.

**INFILTRATION/INFLOW (I/I).** Water other than wastewater that enters the sewer system from the ground or from surface runoff, as defined in Minnesota Rules.

**MPCA.** Minnesota Pollution Control Agency.

**NATIONAL CATEGORICAL PRETREATMENT STANDARDS.** Federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities. (Section 307(b) of the Act, 33 U.S.C. § 1317b.)

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT.** A permit issued by the MPCA setting limits on pollutants that a permittee may legally discharge pursuant to §§ 402 and 405 of the Act, 33 U.S.C. §§ 1342 and 1345.

**NATURAL OUTLET.** Any outlet, including storm sewers and combined sewers, which flows into a body of surface water or ground water.

**NONRESIDENTIAL USER.** A user of the treatment facility whose building is not used as a private residence and discharges NDSW.

**NORMAL DOMESTIC STRENGTH WASTE (NDSW).** Wastewater that is primarily introduced by residential users with BOD<sub>5</sub> concentrations not greater than 200 mg/l and total suspended solids (TSS) concentrations not greater than 240 mg/l.

**OPERATION, MAINTENANCE, AND REPLACEMENT COSTS (OM&R).** Expenditures necessary to provide for the dependable, economical, and efficient functioning of the treatment facility throughout its design life, including operator training and permit fees. Replacement refers to equipment replacement costs, not the cost of future replacement of the entire facility.

**RESIDENTIAL USER.** A user of the treatment facility whose building is used primarily as a private residence and discharges NDSW.

**SEWER.** A pipe or conduit that carries wastewater or drainage water.

(1) **BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal, also referred to as a service connection.

(2) **SANITARY SEWER.** A sewer designed to carry only liquid and water-carried wastes from residential, nonresidential, and industrial sources, together with minor quantities of I/I.

(3) **STORM SEWER.** A sewer intended to carry unpolluted surface and subsurface water from any source.

**SEWER SERVICE CHARGE.** The total of the user charge and the debt service charge.

**SLUG.** A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation.

**STATE DISPOSAL SYSTEM (SDS) PERMIT.** A permit issued by the MPCA pursuant to M.S. § 115.07, as it may be amended from time to time, for a disposal system as defined by M.S. § 115.01, Subd. 5, as it may be amended from time to time.

**TOTAL SUSPENDED SOLIDS (TSS).** The total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* (latest edition).

**UNPOLLUTED WATER.** Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards. An example could be noncontact cooling water.

**USER CHARGE.** A charge to users of a treatment facility for the user's proportionate share of the cost of operation and maintenance, including replacement.

**WASTEWATER.** Liquid and water-carried wastes from residential, nonresidential, and industrial users, together with any ground water, surface water, and storm water that may be present.

**WASTEWATER TREATMENT FACILITIES** or **TREATMENT FACILITIES.** The land, devices, facilities, structures, equipment, and processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal

wastewater and the disposal of residues resulting from such treatment.

(Prior Code, § 53.01) (Ord. 181, passed 8-10-1993)

#### **§ 53.002 CONTROL BY AUTHORIZED REPRESENTATIVE.**

The City Council shall appoint an authorized representative who shall have control and general supervision of all public sewers and service connections in the community or sewer district and shall be responsible for administering the provisions of this chapter to ensure that a proper and efficient public sewer is maintained. The authorized representative may delegate responsibilities to designated representatives.

(Prior Code, § 53.02) (Ord. 181, passed 8-10-1993)

#### **§ 53.003 TAMPERING PROHIBITED.**

No person(s) shall willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater treatment facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

(Prior Code, § 53.03) (Ord. 181, passed 8-10-1993) Penalty, see § 10.99

#### **§ 53.004 USE OF PUBLIC SEWERS REQUIRED.**

(A) Within 30 days of receiving official notification, the owners of all properties within 500 feet of a sanitary sewer collection system shall install a suitable service connection, at their own expense, in accordance with the provisions of this chapter.

(B) In the event an owner shall fail to connect to a public sewer in compliance with a notice given under this chapter, the community or sewer district will have the connection made and shall assess the cost against the benefitted property.

(C) Except as provided hereinafter, it shall be unlawful to construct or maintain any private facility intended or used for the disposal of wastewater.

(Prior Code, § 53.04) (Ord. 181, passed 8-10-1993) Penalty, see § 10.99

#### **§ 53.005 POWERS AND AUTHORITY OF INSPECTORS.**

(A) Duly authorized employee(s) of the community or sewer district, bearing proper credentials and identification, shall be permitted to enter all properties for inspection, observations, measurement, sampling, testing, repair, and maintenance in accordance with the provisions of this chapter.

(B) Industrial users shall be required to provide information concerning industrial processes which have a direct bearing on the type and source of discharge to the collection system. An industry may withhold information considered confidential. However, the industry must establish that the information in question might result in an advantage to competitors and that the industrial process does not have deleterious results on the treatment process.

(Prior Code, § 53.05) (Ord. 181, passed 8-10-1993)

### **PRIVATE WASTEWATER DISPOSAL**

#### **§ 53.020 CONNECTION REQUIRED.**

Where a public sewer is not available under the provisions of § 53.004, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter.

(Prior Code, § 53.15) (Ord. 181, passed 8-10-1993)

#### **§ 53.021 PERMIT.**

Before construction of a private wastewater disposal system, the owner(s) shall obtain a written permit signed by the authorized representative. The permit shall not become effective until the installation is completed to the representative's satisfaction. A designated representative shall be allowed to inspect any stage of construction. The applicant for the permit shall give notification when ready for the system's final inspection and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of the notice.

(Prior Code, § 53.16) (Ord. 181, passed 8-10-1993)

#### **§ 53.022 COMPLIANCE.**

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Minn. Rules Chapter 7080, as it may be amended from time to time, and applicable local ordinances.

(Prior Code, § 53.17) (Ord. 181, passed 8-10-1993)

#### **§ 53.023 FACILITIES MAINTAINED IN A SANITARY MANNER.**

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the

community.

(Prior Code, § 53.18) (Ord. 181, passed 8-10-1993)

#### **§ 53.024 CONNECTION TO PUBLIC SEWER.**

When the public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 30 days in compliance with this chapter, and within 30 days private wastewater disposal systems will be cleaned of all sludge. The bottom shall be broken to permit drainage and the tank or pit filled with suitable material.

(Prior Code, § 53.19) (Ord. 181, passed 8-10-1993)

#### **§ 53.025 ADDITIONAL REQUIREMENTS.**

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the MPCA, the State Department of Health, or other responsible federal, state, or local agencies.

(Prior Code, § 53.20) (Ord. 181, passed 8-10-1993)

### **BUILDING SEWERS AND CONNECTIONS**

#### **§ 53.040 PERMIT FOR CONNECTION REQUIRED.**

(A) No person(s) shall make any alterations to the public sewer or any appurtenances thereof without first obtaining a written permit from the city. No private building drain shall extend beyond the limits of the building or property for which the permit has been given.

(B) Any new connection to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including, but not limited to, capacity for flow, BOD<sub>5</sub>, and TSS as determined by the authorized representative.

(Prior Code, § 53.35) (Ord. 181, passed 8-10-1993)

#### **§ 53.041 EXISTING BUILDING SEWERS; ELEVATION.**

(A) A separate and independent building sewer shall be provided for each building. Old building sewers may be used to service new buildings only when they are found to meet all requirements of this chapter.

(B) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater shall be lifted by an approved means and discharged to the building sewer.

(Prior Code, § 53.36) (Ord. 181, passed 8-10-1993)

#### **§ 53.042 CONFORMANCE WITH REQUIREMENTS.**

The construction and connection of the building sewer to the public sewer shall conform to the requirements of the state's Building and Plumbing Code, applicable rules and regulations of the city, and the materials and procedural specifications set forth in the American Society of Testing Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9. All such connections shall be made gas and water tight and verified by proper testing to prevent I/I.

(Prior Code, § 53.37) (Ord. 181, passed 8-10-1993)

#### **§ 53.043 UNPOLLUTED WATER SOURCES.**

No unpolluted water sources shall be connected to the sanitary sewer.

(Prior Code, § 53.38) (Ord. 181, passed 8-10-1993) Penalty, see § 53.999

#### **§ 53.044 CONNECTION SUPERVISED BY DESIGNATED REPRESENTATIVE.**

The applicant for the building sewer permit shall notify the community or sewer district when the building sewer is ready for connection to the public sewer. The connection shall be made under the supervision of a designated representative.

(Prior Code, § 53.39) (Ord. 181, passed 8-10-1993)

#### **§ 53.045 CONSTRUCTION LICENSE.**

An appropriate construction license is required to install a service connection. Any person desiring a license shall apply in writing to the City Council, providing satisfactory evidence of the applicant's qualifications. If approved by the Council, the license shall be issued by a designated representative upon the filing of a bond as provided in § 53.046.

(Prior Code, § 53.40) (Ord. 181, passed 8-10-1993)

#### **§ 53.046 LICENSE FOR SEWER SERVICE CONNECTION.**

(A) A license for sewer service connection installation shall not be issued until a \$2,000 bond or a \$300 cash bond to the community is filed and approved by the Council. The licensee will indemnify the community from all suits, accidents, and damage that may arise by

reason of any opening in any street, alley, or public ground made by the licensee or by those in the licensee's employment.

(B) The cost of a license for making service connections is \$50. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for any reasonable cause.

(Prior Code, § 53.41) (Ord. 181, passed 8-10-1993)

#### **§ 53.047 SUSPENSION OR REVOCATION OF LICENSE.**

The Council may suspend or revoke any license issued under this subchapter for any of the following causes:

- (A) Giving false information in connection with the application for a license;
- (B) Incompetence of the licensee;
- (C) Willful violation of any provisions of this subchapter or any rule or regulation pertaining to the making of service connections; or
- (D) Failure to adequately protect and indemnify the city and the user.

(Prior Code, § 53.42) (Ord. 181, passed 8-10-1993)

### **USE OF PUBLIC WASTEWATER TREATMENT FACILITIES**

#### **§ 53.060 UNPOLLUTED WATER OR STORMWATER.**

No unpolluted water or stormwater shall be discharged to the sanitary sewer. Such water shall be discharged only to storm sewers or to natural outlets approved by the city and other regulatory agencies.

(Prior Code, § 53.55) (Ord. 181, passed 8-10-1993) Penalty, see § 53.999

#### **§ 53.061 PROHIBITED DISCHARGES.**

No person(s) shall discharge any of the following substances to the public sewer:

- (A) Liquids, solids, gases, or other substances which singly or by interaction with others may cause fire or explosion;
- (B) Solid or viscous substances which may cause obstruction to the flow in a sewer;
- (C) Wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive or caustic property capable of causing damage or hazard; or
- (D) Wastewater containing toxic pollutants, as defined in § 307(a) of the Water Pollution Control Act, 33 U.S.C. § 1317(a) and M.S. § 115.01, Subd. 20, as it may be amended from time to time.

(Prior Code, § 53.56) (Ord. 181, passed 8-10-1993) Penalty, see § 53.999

#### **§ 53.062 LIMITED DISCHARGES.**

(A) Discharges of the following substances shall be limited to concentrations or quantities which will not harm the wastewater facility, streams, soils, vegetation, or ground water and will not otherwise create a hazard or nuisance. The authorized representative may set limitations lower than the prohibition limits outlined below.

(B) Consideration will be given to such factors as the quantity of waste in relation to flows and velocities, materials of construction, the city's NPDES and SDS permits, capacity of the treatment plant, degree of treatability of wastes, and other pertinent factors:

(1) Wastewater having a temperature greater than 150°F (65.6°C) or causing, individually or in combination with other wastewater, the influent at the treatment facilities to have a temperature exceeding 104°F (40°C) or having heat in amounts which will be detrimental to biological activity in the treatment facilities;

(2) Wastewater containing fats, wax, grease, or oils in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65.6°C);

(3) A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation;

(4) Food wastes not properly shredded to such a degree that all particles will be carried freely under normal flow conditions with no particle greater than one-half inch in any dimension;

(5) Noxious or malodorous liquids, gases, or solids;

(6) Wastewater with objectionable color not removed in the treatment process;

(7) Wastewater containing inert suspended solids in such quantities that would cause disruption to the wastewater treatment facilities;

(8) Radioactive wastes or isotopes in concentrations that exceed limits established by applicable state and federal regulations;

(9) Wastewaters with BOD<sub>5</sub> or suspended solids levels that require additional treatment, except as may be permitted by specific written agreement with the city subject to § 53.065; and

(10) Wastewater containing substances which cannot be treated to produce effluent quality required by the permit or causes a violation of any applicable local, state, or federal regulation.

(Prior Code, § 53.57) (Ord. 181, passed 8-10-1993)

### **§ 53.063 ACTIONS OF REPRESENTATIVE.**

(A) In the event of discharges to the public sewers which contain substances or possess characteristics prohibited in §§ 53.061 and 53.062 or which, in the judgement of the representative, may have a deleterious effect to the treatment facility, receiving water, soils, vegetation, or which create a hazard or nuisance, the representative may:

(1) Refuse to accept the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to § 307(b) of the Act and all addenda thereof;

(3) Require control over the quantities and rates of discharge; and

(4) Require payment to cover all the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer charges.

(B) If the representative permits the pretreatment or equalization of waste flows, the design, installation, maintenance, and efficient operation of the facilities and equipment shall be at the owner's expense and shall be subject to review and approval by the city pursuant to the requirements of the MPCA.

(Prior Code, § 53.58) (Ord. 181, passed 8-10-1993)

### **§ 53.064 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

No user shall increase the use of process water or in any manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this subchapter, the national categorical pretreatment standards, and any state or local requirement.

(Prior Code, § 53.59) (Ord. 181, passed 8-10-1993) Penalty, see § 53.999

### **§ 53.065 GREASE, OIL, AND SAND INTERCEPTORS.**

(A) Grease, oil, and sand interceptors shall be provided at the owner's expenses when, in the opinion of the representative, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable wastes, sand, or other harmful ingredients. All interceptors shall be readily and easily accessible for cleaning and inspection. The owner shall be responsible for the maintenance of interceptors, including proper removal and disposal of the captured materials by appropriate means and shall maintain a record of dates and means of disposal which are subject to review by the representative.

(B) Any material removal and hauling must be performed by the owner's personnel or a currently licensed waste disposal firm and in compliance with all applicable laws and regulations.

(Prior Code, § 53.60) (Ord. 181, passed 8-10-1993)

### **§ 53.066 TESTING EQUIPMENT.**

Where required by the representative, industrial users shall install and maintain at their own expense a suitable structure or control manhole with such necessary meters and other testing equipment needed to facilitate observation, sampling, and measurement of wastewater. The manhole will be safe and accessible at all times. The Council may require submission of laboratory analyses to illustrate compliance with this chapter and any special conditions for discharge established by the Council or responsible regulatory agency. All measurements, tests, and analyses to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods of the Examination of Water and Wastewater*, published by the American Public Health Association and kept for a period of one year.

(Prior Code, § 53.61) (Ord. 181, passed 8-10-1993)

### **§ 53.067 ACCIDENTAL DISCHARGES.**

(A) Where required by the representative, users shall provide protection from an accidental discharge of substances regulated by this chapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expenses. Detailed plans and operating procedures of the facilities shall be submitted to the representative for review and approval prior to construction of the facility. Approval of such plans and operating procedures shall not relieve user from the responsibility of modifying the facility as necessary to meet the requirements of this chapter.

(B) Users shall notify the representative immediately if a slug or accidental discharge of wastewater occurs in violation of this chapter. Notification will allow measures to be taken to minimize damage to the treatment facilities. Notification will not relieve users of liability for any expense, loss, or damage to the treatment facilities or for fines imposed on the community or sewer district by any state or federal agency as a result of their actions.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the emergency notification procedure in the event of a slug or accidental discharge.

(Prior Code, § 53.62) (Ord. 181, passed 8-10-1993)

### **§ 53.068 REPAIRS.**

(A) No person shall permit any substance or matter which may form a deposit or obstruction of flow to be discharged into the public sewer. Whenever any service connection becomes clogged, obstructed, detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall make repairs as directed by the representative.

(B) Each day after 30 days that the owner neglects to make the repairs shall constitute a separate violation of this section. The representative may then cause the work to be done and recover related expenses from the owner or agent by an action in the name of the community or sewer district.

(Prior Code, § 53.63) (Ord. 181, passed 8-10-1993) Penalty, see § 53.999

### **§ 53.069 COST OF REPAIRS.**

In addition to penalties that may be imposed for violation of any provision of this subchapter, the city may assess against the user/owner the cost of repairing or restoring sewers and associated facilities damaged as a result of the discharge of prohibited wastes and may collect the assessment as an additional charge for the use of the public sewer system.

(Prior Code, § 53.64) (Ord. 181, passed 8-10-1993)

### **§ 53.070 SPECIAL AGREEMENTS.**

No statement contained in this subchapter shall prevent any special agreement or arrangement between the community of the city and any industrial user. Industrial waste of unusual strength or character may be accepted by the facility for treatment, subject to adequate payment by the industrial user, providing that national categorical pretreatment standards and the city's NPDES and SDS permit limitations are not violated.

(Prior Code, § 53.65) (Ord. 181, passed 8-10-1993)

### **§ 53.071 SUMP PUMPS.**

(A) *Prohibited water.* It shall be unlawful for any owner, occupant, or user of any premises to direct into or allow any storm water, surface water, ground water, well water, or water from industrial or commercial air conditioning systems to drain into the sanitary sewer system of the city. No person(s) shall make connection of roof down spouts, foundation drains, areaway drains, sump pumps, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer (unless such connection is approved by the city).

(B) *Exceptions.* In certain locations where surface storm water discharge would create a safety hazard during freezing weather, connection to the sanitary sewer may be maintained from October 15 to April 15. In no case shall any connection to the sanitary sewer be maintained from April 15 to October 15. Exceptions will be granted by permit on a case by case basis as determined by the City Council.

(C) *Sump, pump, and rigid pipe; method of installation.*

(1) The building shall have a drain tile placed around the inside or outside perimeter of the foundation connected to a sump pit. All baseboard seepage collection systems shall be discharged to the sump pit. The sump pit shall be located at least ten feet away from the inside sanitary floor drain.

(2) A discharge pipe shall be installed to the outside wall of the building with rigid pipe (plastic, copper, galvanized, or black pipe) one inch inside diameter minimum. The discharge pipe must have a check valve within one foot of the floor grade and a union or other approved coupling for easy disconnection for repair or replacement. The discharge shall extend at least three feet outside of the foundation wall.

(3) Alternate methods of installation include the following.

(a) The discharge pipe may be connected directly to the municipal underground storm sewer system, provided the discharge is at a higher elevation than the normal flow level and that an approved backflow prevention device is installed.

(b) The discharge may be connected directly to the municipal curb and gutter system, provided the pipe is placed under the sidewalk or boulevard and through the back of the curb and that an approved backflow prevention device is installed.

(D) *Violation.* Each property within the city to which there is a sanitary sewer connection shall receive an annual surcharge in the sum of \$75 per month, fine of \$750, or both. This surcharge shall be paid with the monthly sewer charges. The owner of any building who permits the city to make thorough and complete inspection of the building and premises to determine that there is no unauthorized or prohibited connection to the sanitary sewer shall have such surcharge abated. This surcharge may be reimposed at any time the city reasonably believes unauthorized connection of the sanitary sewer has been made and shall be abated only upon proof by inspection by city personnel that no such connection exists. Surcharge shall begin July 1, 1994. In the event that the owner fails to correct the situation within the given time period, the city may correct it and collect such costs, together with reasonable attorneys fees and the collection fees, by suing the owner in a court of competent jurisdiction, or in the alternative, by certifying the costs of correction as any other special assessment upon the land from which the correction of the violation was made.

(E) *Powers and authority of inspections.* The City Administrator will appoint duly authorized employees of the city bearing proper credentials and identification who shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this section.

(Prior Code, § 53.66) (Ord. 180, passed 7-13-1993; Ord. 211, passed 2-14-2000) Penalty, see § 53.999

### **§ 53.072 MAINTENANCE AND REPAIR OF SEWER LINES.**

(A) Any and all repairs, maintenance, replacement, or construction of sanitary sewer lines or pipes upon any private or city property within the city shall be done so under the direct supervision of the city or its designated agents.

(B) Except for proceeding undertaken for special assessments with the meaning to M.S. Chapter 429, as it may be amended from time to time, all repair, alteration, and maintenance of any trunk sanitary sewer lines located within the city shall be undertaken by the city at its own cost and expense. **TRUNK SANITARY SEWER LINE** shall be defined as any main sanitary sewer line downstream from a manhole directly on that line.

(C) All lateral service pipes serving individual owners shall be maintained, replaced, repaired, or altered at the expense of the private property owner from the curb plane or the property line to the private residence, commercial structure, or other facility being served by the sanitary sewer service and from the curb plane or property line to the city trunk line shall be the city's responsibility. **LATERAL SERVICE PIPES** shall be defined as any line connecting to a trunk line and intended to serve individual property or properties.

(D) Any cost whatsoever incurred by the city to repair, replace, maintain, or alter a sanitary sewer line in the city, which cost is properly that of a property owner, as opposed to the city according to the terms of this section, shall be paid within 30 days by the private owner to the city upon presentment of a statement therefor.

(1) It shall be the duty of the City Administrator to inform the City Council on October 1 of each year of any sums not so paid after due presentment to the private property owner.

(2) Thereupon it shall be the obligation of the City Council to certify the unpaid sums over to the County Auditor to be collected in the mode and manner provided by statute for the collection of special assessments.

(Prior Code, § 53.67) (Ord. 179, passed 8-10-1993; Ord. 193, passed 3-14-1995)

## **SEWER SERVICE CHARGE SYSTEM**

### **§ 53.085 ESTABLISHMENT.**

(A) The city establishes a sewer service charge system. All revenue collected from users of the wastewater treatment facilities will be used for annual operation, maintenance, replacement, and capital costs. Each user shall pay a proportionate share of operation, maintenance, and replacement costs based on the user's proportionate contribution to the total wastewater loading.

(B) Charges to users of the wastewater treatment facility shall be determined and fixed in a sewer service charge system (SSCS) developed according to the provisions of this subchapter. The SSCS adopted by resolution upon enactment of this subchapter shall be published in the local newspaper and shall be effective upon publication. Subsequent changes in the sewer service rates and charges shall be adopted by Council resolution and published in the local paper.

(C) Revenues collected through the SSCS shall be deposited in a separate fund known as the Sewer Service Fund (SSF).

(Prior Code, § 53.80) (Ord. 181, passed 8-10-1993)

### **§ 53.086 SEWER SERVICE FUND.**

(A) The city establishes a Sewer Service Fund as an income fund to receive all revenues generated by the SSCS and all other income dedicated to the wastewater treatment facility.

(B) The SSF administered by a designated representative shall be separate and apart from all other accounts. Revenues received by the SSF shall be transferred to the following accounts established as income and expenditure accounts:

- (1) Operation and maintenance;
- (2) Equipment replacement; and
- (3) Debt retirement for the treatment facility (if any).

(Prior Code, § 53.81) (Ord. 181, passed 8-10-1993)

### **§ 53.087 ADMINISTRATION OF FUND.**

(A) A designated representative shall maintain a proper system of accounts and records suitable for determining the operation, maintenance, replacement (OM&R), and debt retirement costs for the treatment facilities and shall furnish the Council with a report of such costs annually.

(B) At that time the Council shall determine whether sufficient revenue is being generated for the effective management of the facilities and debt retirement. The Council will also determine whether the user charges are distributed proportionately. If necessary, the SSCS shall be revised to ensure proportionality of user charges and sufficient funds.

(C) In accordance with state requirements, each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to OM&R.

(D) Sewer service charges shall be billed on a monthly basis. Any bill not paid in full 60 days after the due date will be considered delinquent. At that time the user will be notified regarding the delinquent bill and subsequent penalty. The penalty shall be computed as

10% of the original bill and shall be increased by the same percent for every month the bill is outstanding.

(Prior Code, § 53.82) (Ord. 181, passed 8-10-1993)

**§ 53.088 DETERMINATION OF SEWER SERVICE CHARGES.**

(A) (1) Users of the wastewater treatment facilities shall be permitted into one of the following classes:

- (a) Residential;
- (b) Nonresidential; and
- (c) Industrial.

(2) Charges to users who discharge NDSW will be calculated on the basis of metered water use.

(B) Each user shall pay operation, maintenance, and replacement costs in proportion to the user's contribution of wastewater flows and loadings to the treatment plant, with a minimum rate for loadings of BOD and TSS being the rate established for normal domestic strength waste (NDSW) concentrations. Those industrial users discharging only segregated NDSW can be classified as nonresidential users for the purposes of rate determination.

(C) Charges for residential and nonresidential users will be determined proportionately according to billable wastewater flow.

(1) *Residential users.* Billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The monthly billable wastewater volume will be equal to the monthly metered water usage. The city may require residential users to install water meters for the purpose of determining billable wastewater volume.

(2) *Nonresidential users.* Billable wastewater volume of nonresidential users may be determined in the same manner as for residential users. The city may require nonresidential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

(D) The sewer service charges established in this subchapter will not prevent the assessment of additional charges to users who discharge wastes in concentrations greater than NDSW or of unusual character (industrial users). Special contractual agreements can be made with such users, subject to the following conditions:

(1) The user pays OM&R costs in proportion to the user's contribution of wastewater flows and loadings to the treatment facility, and no user is charged at a rate inferior to the charge for normal domestic strength wastes; and

(2) The sampling of wastewater shall be conducted in accordance with the techniques established in *Standard Methods for the Examination of Water and Wastewater*, latest edition.

(E) Determination of user charges:

(1) For producers of normal domestic strength wastes:

$$U_{omr} = \frac{OM\&R}{T_{bwv}}$$

Where:  $U_{omr}$  = Unit cost for operation, maintenance, and equipment replacement in \$/Kgal.  
 $OM\&R$  = Total annual OM&R costs.  
 $T_{bwv}$  = Total annual billable wastewater flow in Kgal.

(2) Calculation of user charges:

Where:  $U_c = U_{omr} \times B_{wv} + Base$   
 $U_c$  = User charge.  
 $U_{omr}$  = Unit cost for operation, maintenance, and equipment replacement in \$/Kgal.  
 $B_{wv}$  = Billable wastewater volume in Kgal.  
 $Base$  = Base charge for administration costs.

(F) Local construction costs for the wastewater treatment facility will be recovered through a debt service charge calculated in a manner consistent with the user charge as follows.

(1) Calculation of unit cost for debt service:

Ads

Uads = Tbvw

- Where: Uads = Unit cost for annual debt service (\$/Kgal).  
Ads = Cost of annual debt service.  
Tbvw = Total annual billable wastewater volume (Kgal).

(2) Calculation of debt service charge:

- Where: Dsc = Uds x Bwv  
Dsc = Debt service charge.  
Uds = Unit charge for debt service (\$/Kgal).  
Bwv = Billable wastewater volume of a single user (Kgal).

(G) The sewer service charge for a particular connection shall be determined as follows:

- Where: SSC = UC + DSC  
SSC = Sewer service charge.  
UC = User charge.  
DSC = Debt service charge.

(Prior Code, § 53.83) (Ord. 181, passed 8-10-1993)

**§ 53.999 PENALTY.**

(A) Upon determination that a user has violated or is violating applicable provisions of this chapter or related permits, the authorized representative may issue a notice of violation. Within 30 days of such notification, the violator shall submit to the authorized representative an adequate explanation for the violation and a plan for the correction and prevention of such occurrences, including specific actions required. Submission of such a plan in no way relieves the violator of liability of any violation occurring before or after the issuance of the notice of violation.

(B) Any person found to be violating any provision of this chapter shall be guilty of a misdemeanor and shall be prosecuted accordingly. Each day in which any such violation occurs shall be deemed as a separate offense. Such fines may be added to the user's next sewer service charge and will hence be subject to the same collection regulations as specified in this chapter. Users desiring to dispute a fine must file a request for the authorized representative to reconsider within 30 days of the issuance of the fine. If the authorized representative believes that the request has merit, a hearing on the matter shall be convened within 30 days of the receipt of the request.

(C) To collect delinquent sewer service charge accounts, the community or sewer district may file a civil action suit or levy a lien against the violator. Related attorneys fees fixed by court order shall also be collected. The violator shall be liable for interest on all balances at a rate of 18% annually.

(D) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned by the community or sewer district by reason of such violation.

(Prior Code, § 53.98) (Ord. 181, passed 8-10-1993)

**TITLE VII: TRAFFIC CODE**

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. STOPPING, STANDING, AND PARKING
- 73. SNOWMOBILES
- 74. GOLF CARTS
- 75. OFF-HIGHWAY VEHICLES
- 76. ADMINISTRATIVE PENALTIES

## CHAPTER 70: GENERAL PROVISIONS

---

### Section

- 70.01 Statutes adopted
- 70.02 Definitions
- 70.03 Through streets; one-way streets
- 70.04 Truck restrictions
- 70.05 Seasonal weight restrictions
- 70.06 Establishment of safety zones, lanes of traffic, and the like
- 70.07 Police duties
- 70.08 Impoundment fee

#### **§ 70.01 STATUTES ADOPTED.**

(A) M.S. Chapter 169, in its entirety and as amended, is herein incorporated as part of this code.

(B) Any violation of the statutes adopted by reference in division (A) above is a violation of this code, and a violator guilty of the offense shall be punishable by the penalty as is prescribed by the statutes.

(Prior Code, § 70.01)

#### **§ 70.02 DEFINITIONS.**

Any term used in this code and defined in M.S. § 169.011, as amended, has the meaning given it by that section.

(Prior Code, § 70.02)

#### **§ 70.03 THROUGH STREETS; ONE-WAY STREETS.**

The Council, by resolution, may designate any street or portion of street as a through highway or a one-way roadway where necessary to preserve the free flow of traffic or to prevent accidents. The city's Public Works Department shall post appropriate signs at the entrance to such a street. No trunk highway shall be so designated unless the consent of the Commission of Highways to such designation is first secured.

(Prior Code, § 70.03)

#### **§ 70.04 TRUCK RESTRICTIONS.**

The Council, by resolution, may designate streets on which travel by commercial vehicles in excess of 1,000 pounds per axle gross weight is prohibited. The Public Works Department shall erect appropriate signs on such streets. No person shall operate a commercial vehicle on such posted streets in violation of the restrictions stated.

(Prior Code, § 70.04) (Ord. 208, passed 6-14-1999; Ord. 218, passed 9-10-2002)

#### **§ 70.05 SEASONAL WEIGHT RESTRICTIONS.**

The Public Works Department may prohibit the operation of vehicles upon any street under the Department's jurisdiction or impose weight restrictions on vehicles to be operated on such streets whenever the street, by reason of deterioration, rain, snow, or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced. The Public Works Director shall erect and maintain signs plainly indicating the prohibition or restriction at each end of that portion of the street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

(Prior Code, § 70.05)

#### **§ 70.06 ESTABLISHMENT OF SAFETY ZONES, LANES OF TRAFFIC, AND THE LIKE.**

To assist in the direction and control of traffic, to improve safe driving conditions at any intersection or dangerous location and to warn pedestrians or drivers of motor vehicles of dangerous conditions or hazards, the Chief of Police may establish safety zones, lanes of traffic, and stop intersections and may order installation by the Public Works Department of stop signs, yield signs, warning signs, signals, pavement markings, or other devices. No regulation may be established on a trunk highway unless the consent of the Commission of Highways is first secured.

(Prior Code, § 70.06)

#### **§ 70.07 POLICE DUTIES.**

The Police Department shall enforce the provisions of this code and the state traffic laws. Police officers are authorized to direct all traffic within the city, either in person or by means of visible or audible signal, in conformity with this code and the state traffic laws.

During a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Police Department may direct traffic as conditions require, notwithstanding the provisions of this code and the state traffic laws. Officers of the Fire Department may direct or assist the police in directing traffic at the scene of a fire or in the immediate vicinity.

(Prior Code, § 70.07)

#### **§ 70.08 IMPOUNDMENT FEE.**

In the occasion that the city's Police Department, for whatever lawful or purposeful reason, does impound a vehicle in the city's impound lot, a fee of \$10 per day, for which the vehicle is impounded, will be charged to the owner of the vehicle.

(Prior Code, § 70.08) (Ord. 221, passed 8-12-2002)

## **CHAPTER 71: TRAFFIC REGULATIONS**

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### Section

71.01 Turning

71.02 Speed limit in school zones

71.03 Exhibition driving prohibited

#### **§ 71.01 TURNING.**

(A) *Restriction on turns.* The Council, by resolution, may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where the turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. The Public Works Department shall mark by appropriate signs any intersection so designated. No intersection on a trunk highway shall be so designated until the consent of the Commission of Highways to such designation is first obtained. No person shall turn a vehicle at any such intersection contrary to the directions on such signs.

(B) *U-turns.* U-turns are not allowed unless specifically permitted by a sign or notice. For the purpose of the section, u-turns, in addition to its generally accepted definition, are also considered to include the following:

- (1) The parking of a motor vehicle by making a left-hand turn across an opposing lane of traffic;
- (2) The backing out of a parking space across the centerline of the roadway; and
- (3) The backing out of a parking space in such a manner as to result in the front of the motor vehicle facing in the direction of on-coming traffic.

(Prior Code, § 71.01) (Ord. 185, passed 6-14-1994) Penalty, see § 10.99

#### **§ 71.02 SPEED LIMIT IN SCHOOL ZONES.**

School speed limit zones are established on the following streets: Third Street West between Birch Avenue and Cedar Avenue; Fourth Street West between Ash Avenue and Douglas Avenue; Fifth Street West between Ash Avenue and Birch Avenue; and Birch Avenue between Sixth Street West and Third Street West. Upon the erection of appropriate signs designating the beginning and ending of such speed limit zones, no person shall drive a vehicle within the zones designated by this section in excess of 20 mph when children are present, going to, or leaving school during opening or closing hours or during school recess periods.

(Prior Code, § 71.02) Penalty, see § 10.99

#### **§ 71.03 EXHIBITION DRIVING PROHIBITED.**

No person shall turn, accelerate, decelerate, or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Squealing or screeching sounds emitted by tires or the throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

(Prior Code, § 71.03) Penalty, see § 10.99

## **CHAPTER 72: STOPPING, STANDING, AND PARKING**

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### Section

72.01 Angle and parallel parking

72.02 No parking, stopping, or standing

72.03 Time limit parking zones

72.04 Truck zones, loading zones, and the like

72.05 Bus stops and taxi stands

72.06 Winter parking

72.07 Impoundment

72.08 Prima facie violation

72.99 Penalty

### **§ 72.01 ANGLE AND PARALLEL PARKING.**

Angle parking shall be required on the following streets: Main Street between Cedar Avenue and Ash Avenue; Cedar Avenue between Second Street West and Second Street East; and Birch Avenue between Second Street West and Second Street East. On any such street every vehicle parked shall be parked with the front of the vehicle facing the curb or the edge of the traveled portion of the street at an angle of approximately 45 degrees. On all other streets, cars shall be parked parallel to the curb or edge of the roadway in accordance with law.

(Prior Code, § 72.01)

### **§ 72.02 NO PARKING, STOPPING, OR STANDING.**

The Council may, by resolution, designate certain streets or portions of streets as no parking or no stopping or standing zones and may limit the hours in which the restrictions apply. The Public Works Department shall mark by appropriate signs each zone so designated. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no-parking zone during hours when parking is prohibited except that a vehicle may be parked temporarily in such zone for the purpose of forming a funeral procession and a truck may be parked temporarily during any business day for the purpose of loading or unloading where access to the premises is not otherwise available.

(Prior Code, § 72.02) Penalty, see § 72.99

### **§ 72.03 TIME LIMIT PARKING ZONES.**

The Council may, by resolution, designate certain areas where the right to park is limited during hours specified. The Public Works Director shall mark by appropriate signs each zone so designated. During the hours specified on the sign, no person shall park a vehicle in any limited parking zone for a longer period than is so specified.

(Prior Code, § 72.03)

### **§ 72.04 TRUCK ZONES, LOADING ZONES, AND THE LIKE.**

(A) *Establishment.* The Council may, by resolution, establish spaces in streets as loading zones or truck zones. The hours of 7:00 a.m. to 6:00 p.m. of any day except Sunday, New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day, or such other time as the Council may specify in the resolution establishing the zone, shall be the loading zone or truck zone hours. The Police Chief shall mark each such zone by appropriate signs painted by the Public Works Department.

(B) *Loading zone prohibitions.* During loading zone hours, no person shall stop, stand, or park any vehicle in a loading zone except to receive or discharge passengers or freight and then only for a period no longer than is necessary for the purpose. No person shall occupy a loading zone with a vehicle other than a truck for more than five minutes during such hours.

(C) *Property owner initiative.* Any person desiring the establishment of a loading zone or truck zone abutting premises occupied by the owner shall make written application therefor to the Council. If the Council grants the request, the proper city officer shall bill the applicant for the estimated cost of placing signs and of painting the curb. When the amount is paid to the Administrator, the Public Works Department shall install the necessary signs and paint the curb.

(D) *Parking.*

(1) No person shall allow a semi-trailer to stand or to be parked unattached from a tractor unit for any length of time on any street in the city except in an emergency in order to change tractors.

(2) An over the road tractor vehicle that has no more than a weight of five tons per axle may park on any city street if the trailer is not connected/attached. Under no circumstances shall a tractor's trailer be parked on any city street.

(Prior Code, § 70.04)

(E) *No truck parking zones.* The Council may, by resolution, establish "No Truck Parking" zones in the business district, and the Public Works Department shall mark by appropriate signs any zones so established. Such zones shall be established in the business district where heavy traffic by trucks and other traffic congestion makes parking by trucks a hazard to the safety of vehicles or pedestrians. No person shall park a truck of more than one-ton capacity between 7:00 a.m. and 6:00 p.m. on any week day upon any street in any such zone, but parking of the vehicle for a period of not more than 30 minutes shall be permitted in such zone for the purpose of having access to abutting property when such access cannot conveniently be secured otherwise.

(Prior Code, § 72.04)

(Ord. 208, passed 6-14-1999; Ord. 218, passed 9-10-2002) Penalty, see § 72.99

### **§ 72.05 BUS STOPS AND TAXI STANDS.**

(A) *Designation.* The Council may, by resolution, designate spaces on streets in the city where vehicles engaged in carrying passengers for hire shall stand or park. The Chief of Police shall mark by appropriate sign any bus stop or taxi stand so established.

(B) *Parking restrictions.* Except for the purpose of loading or unloading passengers, no driver of any vehicle, other than a bus, shall stand or park at a bus stop, and no driver of any vehicle other than a taxi cab shall stand or park in a taxi stand.

(Prior Code, § 72.05) Penalty, see § 72.99

### **§ 72.06 WINTER PARKING.**

(A) *Application.* The owner, driver, or person in charge of any motor vehicle within the city limits shall conform to and observe the regulations set forth in this section.

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

**MOTOR VEHICLE.** Any self-propelled motor vehicle, or other vehicle on wheels, which would ordinarily travel on public streets.

**PARKED or PARKING.** Stopping or allowing any motor vehicle to stand upon any public street.

**PUBLIC STREET.** The entire width between boundary lines of any way or place within the city limits when any part thereof is open to public use for vehicular traffic and shall include public ways commonly referred to as alleys, avenues, or boulevards.

(C) *General parking prohibition.* No motor vehicle shall be parked on any public street after a snowfall of two inches until the street is plowed curb to curb. Also, no motor vehicle shall be parked on any public street for more than 72 consecutive hours.

(D) *Impounding of vehicles.*

(1) A vehicle may be impounded without prior notice and at the owner's expense.

(2) A vehicle may be impounded without citation and without prior notice to its owner only under the following circumstances:

(a) When a vehicle is impeding or is likely to impede the normal flow of traffic or pedestrian traffic;

(b) When the vehicle is illegally parked in a truck, bus, or other similar zone where parking is limited to designated classes of vehicles and where such vehicle is interfering with the proper and intended use of such zones or is parked where prohibited by law or by temporary or permanent signs during certain hours, on designated days or at all times;

(c) When the vehicle poses an immediate danger to the public safety; or

(d) When the vehicle is parked in violation of snow emergency regulations.

(E) *Recovery of impounded vehicles.* Any motor vehicle towed and impounded under this section may be claimed and recovered from the city after payment to the city of all towing and storage charges. The city does not assume any responsibility for any damage done during towing and/or impoundment under this section.

(F) *Prohibition on snow removal from private property.* No person shall remove snow from private property and deposit the same on any public street or parking lot. Any snow so deposited may be removed by the city, and the cost of the removal shall be assessed and charged to the person in violation of this section.

(Prior Code, § 72.06) (Ord. 170, passed 2-14-1989; Ord. 192, passed 11-15-1994; Ord. 194, passed 3-14-1995; Ord. 215, passed 2-12-2001) Penalty, see § 72.99

### **§ 72.07 IMPOUNDMENT.**

Any police officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or street improvement or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this code.

(Prior Code, § 72.07)

### **§ 72.08 PRIMA FACIE VIOLATION.**

The presence of any motor vehicle on any street when standing or parked in violation of this code is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

(Prior Code, § 72.08)

### **§ 72.99 PENALTY.**

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) Any person, firm, or corporation violating the provisions of § 72.06 shall be guilty of a petty misdemeanor and punished according to law.

(Prior Code, § 72.06) (Ord. 170, passed 2-14-1989; Ord. 192, passed 11-15-1994; Ord. 194, passed 3-14-1995; Ord. 215, passed 2-12-2001)

## CHAPTER 73: SNOWMOBILES

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### Section

- 73.01 Definitions
- 73.02 Purpose and intent
- 73.03 Hours and place of operation
- 73.04 Operation generally
- 73.05 Street and highway crossings
- 73.06 Certain state statutes adopted
- 73.07 Minimum equipment requirements
- 73.08 Operation by minors

- 73.99 Penalty

### § 73.01 DEFINITIONS.

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

**OPERATOR.** A person who operates or is in actual control of a snowmobile.

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

**PERSON.** An individual, partnership, corporation, and any body of persons, whether incorporated or not.

**SNOWMOBILE.** A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

(Prior Code, § 73.01) (Ord. 214, passed 1-8-2001)

### § 73.02 PURPOSE AND INTENT.

The purpose of this chapter is to provide reasonable regulations for the use of snowmobiles on public and private property in the city.

(Prior Code, § 73.02) (Ord. 214, passed 1-8-2001)

### § 73.03 HOURS AND PLACE OF OPERATION.

(A) No person shall operate a snowmobile on any street, roadway, or public thoroughfare within the city between the hours of 1:00 a.m. and 7:00 a.m.

(B) No snowmobile shall be operated within the city except for the purpose of traveling from the location where the snowmobile is normally stored to the city limits or from the city limits to where the snowmobile is normally stored. The most direct route shall be used when leaving or entering the city.

(Prior Code, § 73.03) (Ord. 214, passed 1-8-2001) Penalty, see § 73.99

### § 73.04 OPERATION GENERALLY.

It shall be unlawful for any person to operate a snowmobile within city limits in the following ways:

- (A) At a speed greater than 15 mph;
- (B) On the portion of any public highway, street, road, alley, or trail used for motor vehicle travel, except that a snowmobile may operate upon the most right hand lane of a municipal street or alley;
- (C) With any metal traction devices;
- (D) On a sidewalk or boulevard, except that a direct crossing may be made in the same manner as provided for the direct crossing of a city street;
- (E) At any place or at any time while under the influence of intoxicating liquor, narcotics, or habit forming drugs;

(F) At any place and at any time in a careless, reckless, or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto;

(G) On public school grounds, park property, playgrounds, and recreational areas without express permission to do so by proper public authority;

(H) So as to tow any person or thing on a public street or highway except through the use of a rigid tow-bar attached to the rear of the snowmobile; and/or

(I) In a manner that simulates a race or temporary race or negligent manner so as to endanger or be likely to endanger any person or property.

(Prior Code, § 73.04) (Ord. 214, passed 1-8-2001) Penalty, see § 10.99

### **§ 73.05 STREET AND HIGHWAY 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 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;

(B) The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way;

(C) No snowmobile shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection as to constitute an immediate hazard; and

(D) 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, the crossing may be made only if both front and rear lights are on.

(Prior Code, § 73.05) (Ord. 214, passed 1-8-2001)

### **§ 73.06 CERTAIN STATE STATUTES ADOPTED.**

M.S. §§ 84.81 through 84.91 inclusive, as amended, and regulations promulgated thereunder are adopted by reference, incorporated herein, and made part hereof.

(Prior Code, § 73.06) (Ord. 214, passed 1-8-2001)

### **§ 73.07 MINIMUM EQUIPMENT REQUIREMENTS.**

It is unlawful for any person to operate a snowmobile not licensed for use when operating within the city limits unless it is equipped with:

(A) A standard muffler which is properly attached and which reduces the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipes, or similar device on any vehicle motor(s);

(B) Brakes adequate to control the movement of and to stop and hold the vehicle motor;

(C) A safety or so-called "deadman" throttle in operating conditions; and

(D) When operated between the hours of one half hour after sunset to one half hour before sunrise or at times of reduced visibility, at least one clear lamp attached to the front with sufficient intensity to reveal persons and vehicles of at least 100 feet ahead during the hours of darkness and under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall 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 hours of darkness under normal atmospheric conditions.

(Prior Code, § 73.07) (Ord. 214, passed 1-8-2001) Penalty, see § 10.99

### **§ 73.08 OPERATION BY MINORS.**

(A) Persons under 12 years of age shall not operate on city streets or the roadway surface of highways or make a direct crossing of a trunk, county state-aid, county highway, or city street as the operator of a snowmobile unless accompanied by parent(s) or guardian(s). A person 12 years of age or older but less than 18 years of age may operate a snowmobile on streets and highways as permitted under this chapter and make direct crossings of such streets and highways only if they are in immediate possession of a valid snowmobile safety certificate issued by the state's Commissioner of Highways.

(B) It is unlawful for the owner of any snowmobile to permit the snowmobile to be operated contrary to the provisions of this section.

(C) All city traffic ordinances shall apply to the operation of snowmobiles upon streets and highways, except those relating to required equipment and except those which by their nature have no application.

(Prior Code, § 73.08) (Ord. 214, passed 1-8-2001) Penalty, see § 10.99

### **§ 73.99 PENALTY.**

Every person convicted of a violation of any of the provisions of this chapter shall be guilty of a misdemeanor, punished by a fine

determined by § 10.99.

(Prior Code, § 73.98) (Ord. 214, passed 1-8-2001)

## CHAPTER 74: GOLF CARTS

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### Section

- 74.01 Definitions
- 74.02 Purpose and intent
- 74.03 Required permit
- 74.04 Conditions
- 74.05 Revocation or denial of permit
- 74.06 Limitations of liability
- 74.07 Certain state statutes adopted
  
- 74.99 Penalty

### **Cross-reference:**

*All-Terrain Vehicles, see Ch. 76*

*Off-Highway Vehicles, see Ch. 75*

### **§ 74.01 DEFINITIONS.**

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

**DESIGNATED ROADWAYS.** A city street and avenue not specifically excluded in this chapter. It does not mean state or county highways such as Main Street (MN Hwy 4), Highway Avenue (US Hwy 212), and Ash Avenue West (CSAH 34).

**MOTORIZED GOLF CART.** A vehicle commonly known as a golf cart, having at least three wheels, and either an electric or a gas motor.

(Prior Code, § 74.01)

### **§ 74.02 PURPOSE AND INTENT.**

The purpose of this section is to authorize the operation of motorized golf carts on designated roadways in the city, pursuant to the authority given to the city by M.S. § 169.045.

(Prior Code, § 74.02)

### **§ 74.03 REQUIRED PERMIT.**

- (A) No person may operate a motorized golf cart pursuant to this section without a valid permit from the city.
- (B) Permit applications shall be available at city offices and shall be in a form approved by resolution of the City Council.
- (C) Only persons at least 18 years of age will be issued a permit. Permit holders may add additional drivers under their permit that are 16 years or older and carry a valid driver's license. It is unlawful for owner of any golf cart to permit the golf cart to be operated contrary to the provisions of this section.
- (D) At the time of application, the applicant shall:
  - (1) Provide proof of insurance complying with the requirements of M.S. § 65B.48, Subd. 5, as the same may be amended from time to time; and
  - (2) Provide all other information as may be required by resolution of the City Council.
- (E) All permits granted pursuant to this section shall be issued for a period not to exceed one year and may be renewed annually by complying with the requirements of this section.
- (F) The City Council shall set fees for such permits by resolution.

(Prior Code, § 74.03) Penalty, see § 74.99

### **§ 74.04 CONDITIONS.**

(A) No person shall operate a motorized golf cart under this chapter:

- (1) Except on designated routes;
- (2) Except from sunrise to sunset;
- (3) In inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons in vehicles on the roadway at a distance of 500 feet;
- (4) Without displaying the slow-moving vehicle emblem provided for in M.S. § 169.522;
- (5) Unless the vehicle is equipped with a rear view mirror as provided in M.S. § 169.70;
- (6) With a passenger or passengers unless each such passenger is seated on a seat specifically designed for the transport of passengers;
- (7) Without having a copy of the permit in possession while using the golf cart;
- (8) At any place and at any time while under the influence of intoxicating liquor, narcotics, or habit forming drugs;
- (9) No person shall turn, accelerate, decelerate, or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Squealing or screeching sounds emitted by tires or the throwing of sand or gravel by the tires is prima facie evidence of a violation of this section;
- (10) On public school grounds, park property, playgrounds, and recreational areas without express permission to do so by proper authority; and
- (11) So as to tow any person or thing on a public street or highway.

(B) The operator of a motorized golf cart under permit on designated routes shall have all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Chapter 169 or other applicable statute or ordinance, except when those provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in M.S. § 169.045, Subd. 7.

(Prior Code, § 74.04) Penalty, see § 74.99

#### **§ 74.05 REVOCATION OR DENIAL OF PERMIT.**

A permit may be revoked by the Chief of Police at any time or denied if it is shown that the permittee cannot safely or legally operate, or has not safely or legally operated, the motorized golf cart within the city or if the permittee's driver's license is no longer recognized as valid in the state. A permittee may appeal any such revocation or denial to the City Council by filing notice of appeal at the city office not later than 14 days after the date of notice of the action to be appealed from.

(Prior Code, § 74.05)

#### **§ 74.06 LIMITATIONS OF LIABILITY.**

Nothing in this chapter shall be construed as an assumption of liability by the city for any injuries to persons or property which may result from the operation of a motorized golf cart by a permit holder, the grant of such permit, or the failure by the city to revoke said permit.

(Prior Code, § 74.06)

#### **§ 74.07 CERTAIN STATE STATUTES ADOPTED.**

(A) M.S. § 169.045, in its entirety and as amended, is herein incorporated as part of this code.

(B) Any violation of the statutes adopted by reference in division (A) above is a violation of this code, and a violator guilty of the offense shall be punishable by the penalty as is prescribed by the statutes.

(Prior Code, § 74.07)

#### **§ 74.99 PENALTY.**

Any person violating any provision of this chapter shall be guilty of a petty misdemeanor and is subject to having his or her permit under this section revoked.

(Prior Code, § 74.08)

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## **CHAPTER 75: OFF-HIGHWAY VEHICLES**

Section

75.01 Statutes adopted

- 75.02 Purpose
- 75.03 Definitions
- 75.04 Required permit
- 75.05 Conditions
- 75.06 Revocation or denial of permit
- 75.07 Limitation of liability

75.99 Penalty

**Cross-reference:**

*All-Terrain Vehicles, see Ch. 76*

**§ 75.01 STATUTES ADOPTED.**

Any violation of the statutes adopted by reference in division (A) of this section is a violation of this code, and a violator guilty of the offense shall be punishable by the penalty as is prescribed by the statutes.

(Ord. 75, passed - -2013)

**§ 75.02 PURPOSE.**

The purpose of this section is to authorize the operation of off-highway vehicles on designated roadways in the city.

(Ord. 75, passed - -2013)

**§ 75.03 DEFINITIONS.**

The following definitions shall apply unless the context clearly indicates or requires a different meaning. The term **OFF-HIGHWAY VEHICLE (OHV)** is used to describe all-terrain vehicles.

**ALL-TERRAIN VEHICLES (ATVS).**

(1) **CLASS 1 ATVS.** Motorized flotation-tired vehicles with at least three but no more than six low pressure tires that have an engine displacement of less than 1,000 cubic centimeters and total dry weight of less than 1,000 pounds. (Dry weight is normally the weight of the vehicle without fluids.)

(2) **CLASS 2 ATVS.** Motorized flotation-tired vehicles with at least three, but no more than six, low pressure tires that have an engine displacement of less than 1,000 cubic centimeters and total dry weight of 1,000 to 1,800 pounds. (Dry weight is normally the weight of the vehicle without fluids.)

**OPERATE.** To ride in or on and have control of any vehicle.

**OPERATOR.** The person who operates or is in actual physical control of a motor vehicle.

**OWNER.** A person, other than a lien holder, having a property interest in, or title to, an all-terrain vehicle, who is entitled to the use or possession thereof.

**PERSON.** Any individual, partnership, corporation, or any body of persons, whether incorporated or not.

**PUBLIC ROAD RIGHT-OF-WAY.**

(1) The entire right-of-way of a roadway that is not privately owned, including the traveled portions, banks, ditches, shoulders, and medians. OHV riding may be permitted on grant in aid trails that include portions of the public road right-of-way when signed for that vehicle type.

(2) It is illegal to operate on the inside slope, shoulder, and roadway of state and county roads. Class 2 ATVs may be operated on the shoulder or extreme right side of county or township roads and city streets if not prohibited by the road authority or other local laws. Class 2 ATVs may not be operated on the shoulder of a state trunk highway.

(Ord. 75, passed - -2013)

**§ 75.04 REQUIRED PERMIT.**

(A) No person may operate an OHV pursuant to this section without a valid permit from the city.

(B) Permit applications shall be available at city offices and shall be in a form approved by resolution of the City Council.

(C) Only persons at least 18 years of age will be issued a permit. Permit holders may add additional drivers under their permit that are 15 years or older and have a valid driver's license and/or ATV vehicle safety certificate. It is unlawful for owner of any OHV to permit the OHV to be operated contrary to the provisions of this section.

(D) At the time of application, the applicant shall:

(1) Provide proof of insurance complying with the requirements of M.S. § 65B.48, Subd. 5, as the same may be amended from time to time; or

(2) Provide all other information as may be required by resolution of the City Council.

(E) All permits granted pursuant to this section shall be issued for a period not to exceed one year and may be renewed annually by complying with the requirements of this section.

(F) The City Council shall set fees for such permits by resolution.

(Ord. 75, passed - -2013) Penalty, see § 75.99

#### **§ 75.05 CONDITIONS.**

(A) No person shall operate an OHV under this chapter:

(1) Except on designated routes and from sunrise to sunset;

(2) In inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons in vehicles on the roadway at a distance of 500 feet;

(3) Without displaying current state registration provided for in state statutes;

(4) Unless the vehicle is equipped with a rear view mirror as provided in M.S. § 169.70;

(5) With a passenger or passengers unless each such passenger is seated on a seat specifically designed for the transport of passengers; and

(6) Without having the permit in possession while using the OHV.

(B) The operator of an OHV under permit on designated routes shall have all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Chapter 169 or other applicable statute or ordinance, except when those provisions cannot reasonably be applied to OHVs

(Ord. 75, passed - -2013) Penalty, see § 75.99

#### **§ 75.06 REVOCATION OR DENIAL OF PERMIT.**

A permit may be revoked by the Chief of Police at any time or denied if it is shown that the permittee cannot safely or legally operate, or has not safely or legally operated, the OHV within the city or if the permittee's driver's license is no longer recognized as valid in the state. A permittee may appeal any such revocation or denial to the City Council by filing notice of appeal at the city office not later than 14 days after the date of notice of the action to be appealed from.

(Ord. 75, passed - -2013)

#### **§ 75.07 LIMITATION OF LIABILITY.**

Nothing in this chapter shall be construed as an assumption of liability by the city for any injuries to persons or property which may result from the operation of an OHV by permit holder, the grant of such permit, or the failure by the city to revoke said permit.

(Ord. 75, passed - -2013)

#### **§ 75.99 PENALTY.**

Any person violating any provision of this chapter shall be guilty of a petty misdemeanor and is subject to having his or her permit under this section revoked.

(Ord. 75, passed - -2013)

## **CHAPTER 76: ADMINISTRATIVE PENALTIES**

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### Section

- 76.01 Purpose and procedures
- 76.02 Application of provisions
- 76.03 Appeals and recourse
- 76.04 Payment of fines
- 76.05 Restricted usage
- 76.06 Records

**§ 76.01 PURPOSE AND PROCEDURES.**

Administrative penalty 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 procedures are intended to be voluntary on the part of those who have been charged with administrative penalties. At any time prior to the payment of the administrative penalty, as is provided for hereafter, 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 at its discretion may choose not to initiate an administrative penalty and may bring criminal charges in the first instance.

(B) In the event a party participates in the administrative penalty procedures, but does not pay the monetary penalty, which may be imposed, the city will seek to collect the costs of the administrative penalty procedure as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

(Ord. 230, passed 10-9-2006)

**§ 76.02 APPLICATION OF PROVISIONS.**

(A) *Application of penalty.* The penalty provided in this chapter shall be applicable to every section of the city code, as though it were a part of each and every separate chapter and section.

(B) *Amendments, codes adopted by reference.* The penalties provided by this chapter or any section of this code apply to the amendment of any section of this code or any code adopted herein by reference to which the penalty relates, whether or not such penalty is reenacted in the amendatory provision, unless otherwise provided in the amendment.

(C) *Penalty section included.* Reference to any sections of this code shall be understood also to refer to and include penalty section relating thereto, unless otherwise expressly provided.

(D) *One judgment only.* In all cases where the same offense is made punishable or is created by different causes or sections of this code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not constitute a recovery of penalty so as to bar any other penalty from being enforced.

(E) *Breach of provisions.* Whenever the doing of any act or omission to do any act constitutes a breach of any section or provision of this code and there shall be no fine or penalty declared for such breach, the provisions of this chapter shall apply.

(Ord. 230, passed 10-9-2006)

**§ 76.03 APPEALS AND RECOURSE.**

(A) *License revocation.* When a person is convicted of a violation of any section of this code, any license previously issued to such person by the city may be revoked by the court or by City Council following an administrative hearing and opportunity to be heard.

(B) *Administrative hearing.* Availability to appeal or contest an administrative fine is made through a hearing of the offense in front of the next available City Council meeting. Determination of conviction shall be made on the merits of the case and shall not be made on ability to make payment on fine.

(C) *No bias in hearings.* Conviction issued by the City Council during an administrative hearing shall not be biased by race, sex, age, economic conditions, personal favor or prejudices, or religious beliefs.

(Ord. 230, passed 10-9-2006)

**§ 76.04 PAYMENT OF FINES.**

In the event that an administrative tag goes unpaid over 30 days, then a uniform traffic citation may be issued for violation of the appropriate state law or city ordinance and sent certified mail to the offender.

(Ord. 230, passed 10-9-2006)

**§ 76.05 RESTRICTED USAGE.**

Utilization of administrative tags shall not be used in place of criminal or state traffic citations in the following:

- (A) DUI's misdemeanor to felony (motor vehicle, ATV, OHM, or snowmobile);
- (B) Assaults;
- (C) Disorderly conduct;
- (D) Minor consumption/possession;

- (E) Minor possession of tobacco;
- (F) Sales of alcohol to minors;
- (G) Harassment or restraining order violations;
- (H) Trespassing charges;
- (I) Any criminal or traffic offense mandating an arrest;
- (J) Any auto accidents or criminal accidents;
- (K) Any offense involving an injured person; and
- (L) Any offense where a use of force is involved by the police or public.

(Ord. 230, passed 10-9-2006)

**§ 76.06 RECORDS.**

- (A) Citations record keeping:
  - (1) Hard copy is given to the offender;
  - (2) One copy is kept on file at the police offices; and
  - (3) One copy along with report kept on file at the city offices.
- (B) All citations and records related to such shall be kept on file with the city for no less than seven years from issuance of citation.

(Ord. 230, passed 10-9-2006)

**§ 76.07 FINE SCHEDULE.**

<i>Fine Schedule</i>	
<i>Fine Schedule</i>	
<b>TRAFFIC RELATED</b>	
\$40	70.01 All Chapter 169 Traffic Violations as adopted.
\$40	70.04 Truck restrictions - no semi trailers parking
\$40	71.01 Restricted turning - no crossing centerline to park or back.
\$40	71.02 School zone speed excess of 20 mph.
\$75	71.03 Exhibition driving
<b>PARKING RELATED</b>	
\$15	72.01 Angle and parallel parking
\$40	72.02 No parking, stopping, or standing zones
\$20	72.03 Time limit parking zones
\$40	72.04 Truck zones, loading zones, and the like
\$40	72.05 Bus stops and taxi stands
\$20	72.06 Winter parking - automobiles
\$50	72.06 Winter parking - immobile vehicles and semi's
\$10 per day	72.07 Impoundment
<b>SNOWMOBILE OPERATIONS</b>	
\$40	73.03 Hours and place of operation
\$40	73.04 Operation generally
\$40	73.05 Street and highway crossings
\$40	73.06 Certain state statutes adopted
\$40	73.07 Minimum equipment requirements
\$40	73.08 Operation by minors
<b>PUBLIC NUISANCES</b>	
\$40	92.01 Public nuisance defined
\$40	92.02 Public nuisances affecting health
\$40	92.03 Public nuisances affecting peace and safety
\$40	92.04 Burning of leaves on private property

\$40	92.05 Open burning of leaves
\$40	92.06 Open burning permitted
<b>ANIMAL RELATED</b>	
\$40	93.02 License requirements
\$40	93.03 Control of animal (including habitual barking)
\$40	93.20 General prohibition
\$100	93.21 Vicious animals - (Along with order to remove animal from city or have animal destroyed)
\$40	93.22 Areas where keeping prohibited
\$40	93.23 Maltreatment
\$40	93.24 Animals at large
\$40	93.25 diseased animals
\$40	93.26 Manner of keeping
\$40	93.26 Care of premises
<b>GENERAL OFFENSES</b>	
\$40	130.01 Use of weapons - BB guns, paint ball (non firearms)
\$40	130.02 Use of city swimming pool restricted
\$40	130.03 Use of public parks regulated
\$40	130.05 Curfew

In accordance with the collection of fines, the city may adjust fees to cover inflation and other factors not expressed in this chapter without the requirement of repeated ordinances. Future establishment of fees may be done by city resolution.

(Ord. 230, passed 10-9-2006)

**§ 76.99 PENALTY.**

(A) *Misdemeanor.* Unless another penalty is expressly provided in this code, and except for the provisions of division (B) below, any person violating any provisions of this code or any rule or regulation adopted or issued in pursuance thereof or any provision of any code adopted herein by reference shall, upon conviction, be punished by a fine or by imprisonment, or both established under M.S. § 609.02, Subd. 3, as amended from time to time.

(B) *Petty misdemeanor.* Any person convicted of a petty misdemeanor shall be subject to a fine of not more than the maximum set by M.S. § 609.02, Subd. 4a, as amended from time to time.

(C) *Administrative offenses.* Any person violating an administrative rule, or any offense that would otherwise be a misdemeanor or petty misdemeanor for which the city has established a scheduled penalty, shall be subject to the scheduled penalty not to exceed \$100 for each offense. The determination as to whether to treat an offense as an administrative offense, petty misdemeanor shall be left to the discretion of the complainant and/or peace officer.

(D) *Separate violations.* Unless otherwise provided, each act of violation and every day upon which a violation occurs or continues constitutes a separate offense.

(E) *Failure of officers to perform duties.* The failure of any officer or employee of the city to perform any official duties imposed by city code shall not be subject to penalties provided for under this code, unless penalty is specifically provided for such conduct or omission.

(Ord. 230, passed 10-9-2006)

**TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. STREETS AND SIDEWALKS**
- 91. TREES**
- 92. HEALTH AND SAFETY; NUISANCES**
- 93. ANIMALS AND LICENSING**
- 94. LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS**

Section

*Right-Of-Way Construction Regulations*

- 90.01 Election to manage the public right-of-way
- 90.02 Definitions and adoption of rules by reference
- 90.03 Permit requirement
- 90.04 Permit applications
- 90.05 Issuance of permit; conditions
- 90.06 Permit fees
- 90.07 Right-of-way patching and restoration
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**RIGHT-OF-WAY CONSTRUCTION REGULATIONS**

**§ 90.01 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.**

In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects pursuant to this chapter to manage rights-of-way within its jurisdiction.

(Prior Code, § 90.01)

## § 90.02 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

Minn. Rules Chapter 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subpts. 1 through 23, as it may be amended from time to time, are the definitions of the terms used in the following provisions of this subchapter.

(Prior Code, § 90.02)

## § 90.03 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) *Excavation permit.* An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minn. Rules part 7819.1000 subpt. 3, as it may be amended from time to time, and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by Council resolution as it may be amended from time to time.

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

(Prior Code, § 90.03) Penalty, see § 10.99

## § 90.04 PERMIT APPLICATIONS.

Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers;

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Director;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation, and umbrella coverage established by the Director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(4) The city may require a copy of the actual insurance policies;

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time, as recorded and certified to by the Secretary of State; and

(6) A copy of the person's order granting a certificate of authority from the state's Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by Council resolution, as may be amended from time to time, estimated restoration costs, and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or

(4) Franchise fees or other charges as established by Council resolution as may be amended from time to time, if applicable.

(Prior Code, § 90.04)

#### **§ 90.05 ISSUANCE OF PERMIT; CONDITIONS.**

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the Director shall issue a permit.

(B) *Conditions.* The Director 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.

(Prior Code, § 90.05)

#### **§ 90.06 PERMIT FEES.**

Permit fees shall be in an amount established by Council resolution as it may be amended from time to time.

(A) *Excavation permit fee.* The city shall establish an excavation permit fee as established by Council resolution, as may be amended from time to time, in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee as established by Council resolution, as may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) *Non-refundable.* Permit fees as established by Council resolution, as may be amended from time to time, that were paid for a permit that the Director has revoked for a breach as stated in § 90.14 are not refundable.

(E) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) *Establishment.* All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.1000, as it may be amended from time to time.

(Prior Code, § 90.06) Penalty, see § 10.99

#### **§ 90.07 RIGHT-OF-WAY PATCHING AND RESTORATION.**

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this subchapter.

(B) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100, as it may be amended from time to time. The 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.

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee, upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the

Director. The work shall be completed within five calendar days of the receipt of the notice from the 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 this subchapter.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by Council resolution as may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(Prior Code, § 90.07)

#### **§ 90.08 SUPPLEMENTARY APPLICATIONS.**

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

(Prior Code, § 90.08)

#### **§ 90.09 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.

(Prior Code, § 90.09)

#### **§ 90.10 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

(Prior Code, § 90.10)

#### **§ 90.11 INSPECTION.**

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of Director.*

(1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Director may issue an order to the permittee 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 days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 90.14.

(Prior Code, § 90.11)

#### **§ 90.12 WORK DONE WITHOUT A PERMIT.**

(A) *Emergency situations.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each

facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this 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.

(Prior Code, § 90.12)

### **§ 90.13 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Director of the accurate information as soon as this information is known.

(Prior Code, § 90.13)

### **§ 90.14 REVOCATION OF PERMITS.**

(A) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited, to the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 90.11.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys fees incurred in connection with the revocation.

(Prior Code, § 90.14)

### **§ 90.15 MAPPING DATA; INFORMATION REQUIRED.**

Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

(Prior Code, § 90.15)

### **§ 90.16 LOCATION OF FACILITIES.**

(A) *Compliance required.* Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000, and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of 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.

(C) *Limitation of space.* To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director 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.

(Prior Code, § 90.16)

### **§ 90.17 DAMAGE TO OTHER FACILITIES.**

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner 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 owner's facilities.

(Prior Code, § 90.17)

### **§ 90.18 RIGHT-OF-WAY VACATION.**

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

(Prior Code, § 90.18)

### **§ 90.19 INDEMNIFICATION AND LIABILITY.**

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules 7819.1250, as it may be amended from time to time.

(Prior Code, § 90.19)

### **§ 90.20 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.**

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Director.

(Prior Code, § 90.20)

### **§ 90.21 APPEAL.**

A right-of-way user that has been denied registration, has been denied a permit, has had permit revoked, or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Prior Code, § 90.21)

### **§ 90.22 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.

(Prior Code, § 90.22)

## **ASSESSABLE CURRENT SERVICES: OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS**

### **§ 90.35 DEFINITION.**

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

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

(Prior Code, § 90.40)

### **§ 90.36 SNOW, ICE, DIRT, AND RUBBISH.**

(A) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 12 hours after its deposit thereon.

(B) *Removal by city.* The Public Works Director shall remove from all public sidewalks all snow, dirt, and rubbish as soon as possible beginning 12 hours after such matter has been deposited thereon or after the snow has ceased to fall.

(1) The Public Works Director shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and

shall deliver such information to the Administrator.

(2) The cost of removal of snow, ice, dirt, and rubbish removed by the Public Works Department shall be charged against the owner of the property and, if not paid, the charge for such work will be made a special assessment against the property concerned.

(Prior Code, § 90.41)

### **§ 90.37 WEED ELIMINATION.**

(A) *Weeds as a nuisance.* Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the city to a greater height than six inches or which have gone or about to go to seed are a nuisance. The owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

(B) *Notice.* On or before June 1 of each year and at such other times as ordered by resolution of the Council, the Administrator shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by division (A) of this section to be a nuisance and stating that if not so destroyed within ten days after publication of the notice, the weeds will be destroyed by the Public Works Department at the expense of the owner and that if not paid, the charge for the work will be made a special assessment against the property concerned.

(C) *Removal by city.* If the owner or occupant of any property in the city fails to comply with the notice within ten days after its publication, the Public Works Department shall cut and remove such weeds. The Public Works Department shall keep a record showing the cost of such work attributable to each separate lot and parcel and shall deliver such information to the Administrator.

(Prior Code, § 90.42)

### **§ 90.38 PUBLIC HEALTH AND SAFETY STANDARDS.**

(A) When the city removes or eliminates public health or safety hazards from private property under city code, the administrative officer responsible for doing the work shall keep a record of the cost of such removal or elimination against each parcel of property affected and annually deliver such information to the Administrator.

(B) This section does not apply to hazardous buildings under the hazardous buildings law, M.S. §§ 463.15 through 463.26, as it may be amended from time to time.

(Prior Code, § 90.43)

### **§ 90.39 INSTALLATION AND REPAIR OF WATER SERVICE LINES.**

Whenever the city installs or repairs water service lines serving private property under Title V of this code, the Public Works Department shall keep the a record of the total cost of the installation or repair against the property and deliver such information to the Administrator annually by August 15 as to each parcel of property on which the cost has not been paid.

(Prior Code, § 90.44)

### **§ 90.40 REPAIR OF SIDEWALKS AND ALLEYS.**

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

(B) *Inspections; notice.* The Public Works Director shall make such inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the Public Works Director shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the city or cannot be found therein, ordering such owner to have the sidewalk or alley repaired and made safe within 20 days and stating that if the owner fails to do so, the Public Works Director will do so on behalf of the city, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

(C) *Repair by city.* If the sidewalk or alley is not repaired within 20 days after receipt of the notice, the Public Works Director shall report the facts to the Council, and the Council shall, by resolution, order the Public Works Director to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with law. The Public Works Director shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the Administrator.

(Prior Code, § 90.45)

### **§ 90.41 STREET SPRINKLING, STREET FLUSHING, TREE CARE, AND THE LIKE.**

(A) *Proposed projects.* The Council shall each year determine by resolution what streets and alleys shall be sprinkled or flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council shall also determine by resolution from time to time the streets on which trees shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. Before any work is done pursuant to either of these resolutions, the Administrator shall, under the Council's direction, publish notice that the Council will meet to consider such projects. The notice shall be published in the official newspaper at least once no less than two weeks prior to such meeting of the Council and shall state the date, time, and place of such meeting, the streets affected and the particular projects proposed and the estimated cost of each project, either in total or on the basis of the proposed

assessment per front foot or otherwise.

(B) *Hearing; order.*

(1) At such hearing or at any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall thereupon adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for the doing of the work by day labor through the Public Works Director or by contract.

(2) The Public Works Director shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done and shall report such information to the Administrator.

(Prior Code, § 90.46)

#### **§ 90.42 STREET LIGHTING SYSTEM.**

The Administrator shall keep a record of the cost of operation of the street lighting system for the 12 months preceding September 1 of each year and the portion of the cost properly attributable during that period to each lot and parcel of property abutting the street or alley in which the system is located. All such costs shall be collected in the manner provided by this code.

(Prior Code, § 90.47)

#### **§ 90.43 PERSONAL LIABILITY.**

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

(Prior Code, § 90.48)

#### **§ 90.44 ASSESSMENT.**

(A) On or before September 1 of each year, the Administrator shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this code.

(B) The Council may then spread the charges against property benefitted as a special assessment under M.S. § 429.101, as amended, 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.

(Prior Code, § 90.49)

#### **§ 90.45 MATERIALS ON STREET OR SIDEWALK.**

(A) No person shall encumber any street, sidewalk, or right-of-way. No owner, occupant, or person having the care of any building or lot of land, bordering on any street, sidewalk, or right-of-way shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

(B) Except for the actions of the city employees and contractors carrying out their duties, no person shall:

- (1) Obstruct any street or sidewalk by depositing snow or ice thereon;
- (2) Dig any holes in any street, sidewalk, or right-of-way;
- (3) Remove any earth, gravel, or rock from any street, sidewalk, or right-of-way;
- (4) Obstruct any ditch draining any street or drain any noisome materials into any ditch;
- (5) Deface, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains, or any other highway appurtenance on or along any street, sidewalk, or right-of-way.
- (6) Remove, injure, displace, or destroy right-of-way markers, or reference or witness monuments, or markers placed to preserve section or quarter-section corners; or

(7) Drive over, through, or around any barricade, fence, or obstruction erected for the purpose of preventing traffic from passing over a portion of a street or sidewalk closed to public travel or to remove, deface, or damage any such barricade, fence, or obstruction.

Penalty, see § 10.99

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## **CHAPTER 91: TREES**

### Section

91.01 Declaration of policy

91.02 Epidemic disease program

- 91.03 Inspection and investigation
- 91.04 Abatement of Dutch elm disease nuisance
- 91.05 Procedure for removal of infected trees and wood
- 91.06 Spraying elm trees
- 91.07 Transporting elm wood prohibited
- 91.08 Interference prohibited

#### **§ 91.01 DECLARATION OF POLICY.**

The Council determines that the health of the elm and oak trees within the city limits is threatened by fatal diseases known as Dutch elm and oak wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of elm, oak, and other trees growing upon public and private property would substantially depreciate the value of property within the city 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 those diseases, and this code is enacted for that purpose.

(Prior Code, § 91.01)

#### **§ 91.02 EPIDEMIC DISEASE PROGRAM.**

It is the intention of the Council to conduct a program of plant pest control pursuant to all the powers of this city, including the authority granted by M.S. § 18G.13, as amended.

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

- (1) Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus *Ceratocystis Ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylungopinus Rufipes* (Marsh);
- (2) Any dead elm tree or part thereof, including legs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;
- (3) Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus *Ceratocystis fagacearum*;
- (4) Any dead oak tree or part thereof which in the opinion of the city shade tree inspector constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood, or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and
- (5) Any other shade tree with an epidemic disease.

(B) *Abatement.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises owned or controlled by that person within the city. The nuisances may be abated in the manner prescribed by this chapter.

(Prior Code, § 91.02) Penalty, see § 10.99

#### **§ 91.03 INSPECTION AND INVESTIGATION.**

(A) *Annual inspection.* As often as practicable, the city shade tree inspector shall inspect all public and private premises within the city which might harbor any plant pest as defined in M.S. § 18G.02, Subd. 24, as amended, to determine whether any condition described in this chapter exists thereon. The city shade tree inspector shall investigate all reported incidents of infestation by Dutch elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic disease of shade trees.

(B) *Entry on private premises.* The city shade tree inspector or duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this code.

(C) *Diagnosis.* The city shade tree inspector shall, upon finding conditions indicating Dutch elm, oak wilt, or other infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take such other steps for diagnosis as may be recommended by the Commission. Except as provided in § 91.06, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

(Prior Code, § 91.03)

#### **§ 91.04 ABATEMENT OF DUTCH ELM DISEASE NUISANCE.**

In abating a nuisance defined in § 91.03, the city shade tree inspector shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases, including Dutch elm disease and oak wilt disease. The city shade tree inspector shall also take such steps as are necessary to prevent root graft transmission of the diseases. The abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commission of Agriculture.

(Prior Code, § 91.04)

#### **§ 91.05 PROCEDURE FOR REMOVAL OF INFECTED TREES AND WOOD.**

(A) *Action by city shade tree inspector.* Whenever the city shade tree inspector finds with reasonable certainty that the infestation defined in § 91.03 exists in any tree or wood in any public or private place in the city, the city shade tree inspector shall proceed as follows.

(1) If the city shade tree inspector finds that the danger of infestation of other elm, oak, or other trees is not imminent because of the dormancy of the infected trees, the city shade tree inspector shall make a written report of the finding to the Council which shall proceed by:

- (a) Abating the nuisance as a public improvement under M.S. Chapter 429, as it may be amended from time to time; or
- (b) Abating the nuisance as provided in division (B) of this section.

(2) If the city shade tree inspector finds that danger of infestation of other elm, oak, or other trees is imminent, the city shade tree inspector shall notify the abutting property owner by certified mail that the nuisance will be abated within a specified time, not less than five days from the date of mailing of the notice. The city shade tree inspector shall immediately report such action to the Council and, after the expiration of the time limit in the notice, may abate the nuisance.

(B) *Action by Council.* Upon receipt of the city shade tree inspector's report required by division (A)(2) above, 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 week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, the 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 with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) *Record.* The Public Works Director or city shade tree inspector shall keep a record of the costs of abatement done under this section and shall report monthly to the Administrator all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

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

(Prior Code, § 91.05)

#### **§ 91.06 SPRAYING ELM TREES.**

(A) *When to spray.* Whenever the Public Works Director or city shade tree inspector determines that any elm tree or elm wood within the city is infected with Dutch elm fungus, the Public Works Department may spray or treat all nearby high value elm trees with an effective elm bark beetle destroying concentrate or fungicide or both. Activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commission of Agriculture and under the supervision of the Commissioner and agents of the Commissioner, whenever possible.

(B) *Notice.* The notice provisions of this section apply to spraying and treatment operations conducted under this section.

(Prior Code, § 91.06)

#### **§ 91.07 TRANSPORTING ELM WOOD PROHIBITED.**

It is unlawful for any person to transport, within the city, any bark-bearing elm or oak wood without having obtained a permit from the city shade tree inspector at the Administrator's office. The city shade tree inspector shall grant such permits only when the purpose of this code will be served thereby.

(Prior Code, § 91.07) Penalty, see § 10.99

#### **§ 91.08 INTERFERENCE PROHIBITED.**

It is unlawful for any person to prevent, delay, or interfere with the city shade tree inspector, or agents of the city shade tree inspector, while they are engaged in the performance of duties imposed by this chapter and is punishable as a misdemeanor.

(Prior Code, § 91.08) Penalty, see § 10.99

## **CHAPTER 92: HEALTH AND SAFETY; NUISANCES**

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Section

### *General Provisions*

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- 92.04 Burning of leaves on private property
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**GENERAL PROVISIONS**

**§ 92.01 PUBLIC NUISANCE DEFINED.**

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

- (A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (C) Is guilty of any other act or omission declared by law or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

(Prior Code, § 92.01) Penalty, see § 92.99

**§ 92.02 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

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

(Prior Code, § 92.02) Penalty, see § 92.99

### **§ 92.03 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

- (A) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;
- (B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (D) All unnecessary noises and annoying vibrations;
- (E) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;
- (F) Radio aerials or television antennas erected or maintained in a dangerous manner;
- (G) 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;
- (H) 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 ordinance;
- (I) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (J) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (K) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (L) Waste water cast upon or permitted to flow upon streets or other public properties;
- (M) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or to fire, health, or safety hazards from accumulation;
- (N) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (O) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (P) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- (Q) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (R) All other conditions or things which are likely to cause injury to the person or property of anyone; and
- (S) The depositing of yard clippings or yard waste on a public right-of-way.

(Prior Code, § 92.03) (Ord. 210, passed 7-12-1999) Penalty, see § 92.99

### **§ 92.04 BURNING OF LEAVES ON PRIVATE PROPERTY.**

- (A) The burning of leaves on private property is permitted under the following conditions:
  - (1) The burning of leaves will only be permitted from October 15 through November 15;
  - (2) A reasonable person shall be in constant attendance until the fire is completely extinguished;
  - (3) Burning will only be allowed between the hours of 8:00 a.m. and 8:00 p.m. All fires are to be extinguished by 8:00 p.m.;
  - (4) Fires shall not be less than 25 feet from any structure, wood fence, hedge, or bush and no less than five feet from any property line;
  - (5) The burning of leaves is prohibited on city streets, boulevards, lake shores, or any public property by private citizens;
  - (6) No open burning of leaves shall take place during an air pollution alert warning or emergency declared by the state's Environmental Protection Agency; and
  - (7) The City Manager may temporarily discontinue burning between October 15 and November 15 due to unsafe conditions (such as excessive dryness and the like). At the City Manager's discretion, the last day of burning may be extended through December 1.
- (B) This section pertains only to the burning of leaves. Any burning of rubbish, trash, or other material is prohibited.

(Prior Code, § 92.04) (Ord. 74, passed 7-26-1982)

### **§ 92.05 OPEN BURNING OF LEAVES.**

(A) *Burning of leaves permitted.* The burning of dried leaves is permitted within the corporate limits of the city only in accordance with conditions set forth in this section.

(B) *Time.* The burning of dried leaves shall be permitted to occur from dawn to 8:00 p.m. on Tuesday, Thursday, Friday, and Saturday beginning with the second Tuesday of October and ending with the last Saturday in November of each year subject to cancellation as provided in M.S. § 512.06, as it may be amended from time to time.

(C) *Declaration of air pollution or fire danger alert.*

(1) *Air pollution alert.* No burning of leaves shall take place during an air pollution alert, warning, or emergency declared by the state's Pollution Control Agency.

(2) *Fire danger alert.* No burning of leaves shall take place during a fire danger alert declared by the Fire Chief for the city or by the Commissioner of the state's Department of Natural Resources.

(3) *Public notice.* Notice of any fire danger alert or of any air pollution alert, warning, or emergency shall be broadcast periodically on any day during which open burning of leaves would otherwise be permitted.

(D) *General precautions against fire.*

(1) *Kindling of fire on land of other restricted.* No person shall ignite or burn any dried leaves upon the land of another without the permission of the owner thereof or his or her agent.

(2) *Burning on public property.* No person shall ignite or burn any dried leaves on any publicly owned or controlled lot or parcel of land, public bridge, street, sidewalk, or public place which has not been set aside by public authorities for such purpose.

(3) *Location restricted.* No person shall ignite or maintain any fire permitted by this section or authorize any such fire to be ignited or maintained on any private land unless:

(a) The fire is contained in an approved waste burner located safely not less than 15 feet from any structure; or

(b) The location is not less than 30 feet from any structure and adequate provision is made to prevent fire from spreading to within 30 feet of any structure.

(4) *Attendance of fires.* Any fire authorized by this section shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.

(5) *Dried leaves only.* No person shall kindle or maintain any fire permitted by this section or authorize such fire to be ignited or maintained if the material to be burned consists of anything other than dried leaves.

(E) *Approved waste burners.* An approved waste burner for the purposes of this section shall be constructed of fire resistant material, have a capacity of at least three bushels, be maintained with a minimum burning capacity of at least two bushels, and have a cover which is closed when in use and openings in the top or sides of one inch maximum diameter. No combustible material shall be nearer than three feet to the burner or incinerator when in use.

(Prior Code, § 92.05) (Ord. 82-3, passed 6-28-1982) Penalty, see § 92.99

#### **§ 92.06 OPEN BURNING PERMITTED.**

(A) Except as authorized by this section, open burning of any materials is prohibited. This prohibition does not apply to burning conducted by governmental authorities who have secured permission from the Fire Chief or to outdoor cooking using only propane or charcoal.

(B) Outdoor recreational or cooking fires may be permitted subject to the following requirements.

(1) All fires must be in approved outdoor fireplaces or a pit which is at least one foot below grade. A pit must be located at least 15 feet from buildings, fences, property lines, or flammable materials. Pits may be no more than three feet in diameter and the outside edge shall be ringed with brick or rock. Commercially manufactured steel and outdoor fire pits may be used provided they are not more than three feet in diameter.

(2) Only wood that is less than two feet in length may be burned while being totally contained in an approved outdoor fireplace or pit. No leaves, trash, treated or painted wood, or any other materials may be burned. All burning must be contained in the pit at all times.

(3) Fires must be managed and maintained so that fires do not exceed three feet above the pit, and persons are able to stand within four feet of the fire.

(4) The fire shall be attended by an adult at all times and must be extinguished when unattended. An adequate source of water must be available at the pit for extinguishing the fire.

(5) The Police Department is authorized to require recreational fires be immediately extinguished if it is determined by the Department's staff that the fire constitutes a dangerous condition, or if the fire is burning without being permitted, or in violation of the permits conditions. Failure to comply with any provisions of this section, with the conditions of the permit or with an order of the Police Department or its agents, is a violation of this section.

(6) If the city's Fire Department is in fact called to the fire you will be billed for the fire call in its entirety.

(Prior Code, § 92.06) (Ord. 212, passed 6-12-2000; Ord. 92, passed 6-10-2013) Penalty, see § 92.99

## § 92.07 BLIGHT.

### (A) *Causes of blight or blighting factor.*

(1) It is hereby determined that the uses, structures, and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods, so as to be harmful to the public welfare, health, and safety.

(2) On and after the effective date of this section, no person, firm, or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented, or occupied by such person, firm, or corporation:

(a) In any area, the storage upon any property of junk automobiles. For the purpose of this section, the term **JUNK AUTOMOBILES** shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the state, and is either unuseable or inoperable because of lack of, or defects in component parts; or unuseable or inoperable because of damage from collision, deterioration, alteration, or other factors; beyond repair and, therefore, not intended for future use as a motor vehicle; or being retained on the property for possible use of salvageable parts;

(b) In any area the storage or accumulation of junk, trash, rubbish, or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed 30 days. The term **JUNK** shall include parts of machinery or motor vehicles, unused stoves, or other appliances stored in the open; remnants of wood; decayed, weathered, or broken construction materials no longer suitable for sale, approved building materials; and metal or other cast off material of any kind, whether or not the same could be put to any reasonable use;

(c) In any area the existence of any structure or part of any structure which because of fire, wind, or other natural disaster, or physical deterioration is no longer habitable as a dwelling or useful for any purpose for which it may have been intended;

(d) In any area the existence of any vacant dwelling, garage, or other out building, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals; or

(e) In any area the existence of any structure whose exterior wall surface is not in good repair or has not been maintained with paint and the like so as to cause a blighting effect in the area where the structure is located.

### (B) *Enforcement and penalties.*

(1) The owner and the occupant of any property upon which any of the causes of blight or blighted factors set forth in division (A) hereof is found to exist, shall be notified, by writing, by the City Administrator to remove or eliminate such causes of blight or blighting factors from such property within ten days after service of the notice upon him or her. Such notice may be served personally or by mail, the same by certified mail, return receipt requested, to the last know address of the owner, and if the premises are occupied, to the premises. Additional time may be granted by the enforcement officer when bona fide efforts to remove or eliminate such causes or blight or blighting factors are in progress.

(2) Failure to comply with such notice within the time allowed shall constitute a violation of this section.

(3) Violation of this section may be a misdemeanor.

(4) In the case of failure to remove any blight within the time prescribed, the city shall remove any garbage, refuse, or other materials accumulated on such property at the expense of the owner. If not paid, the City Administrator shall certify such cost to the County Auditor as a special assessment against the property involved for collection in the same manner as other special assessments. As an additional or alternative remedy, the owners of any interest in the land and the occupant shall be jointly and severally liable for such costs and the costs shall be recoverable in any action brought against any of the in the name of the city.

(Prior Code, § 92.07) (Ord. 173, passed 6-9-1992)

## § 92.08 NOISE.

### (A) *Noises prohibited.*

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

(2) *Horns, audible signaling devices, and the like.* No person shall sound any audible signaling device on any vehicle except as a warning of danger, as required by M.S. § 169.68, as it may be amended from time to time.

(3) *Exhaust.* No person shall discharge the exhaust or permit the discharge of the exhaust of any stream engine, stationary internal combustion engine, motor boat, motor vehicle, motorcycle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(a) No person shall use dynamic or jake brakes causing unnecessary noises and vibrations.

(b) No person shall allow a diesel engine to idle for periods longer than 30 minutes in residential areas

(4) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary

grating, grinding, rattling, or other noise.

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

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

(7) *Participation in noisy parties or gatherings.* No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(8) *Loudspeakers, amplifiers for advertising, and the like.* No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment.

(9) *Animals.* No person shall keep any animal that unreasonably disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise. For purposes of this section, ***DISTURBS THE COMFORT OR REPOSE OF PERSONS IN THE VICINITY BY ITS FREQUENT OR CONTINUED NOISE*** means any one of the following:

(a) The animal noise occurs at a time between 10:00 p.m. and 7:00 a.m. and can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three minute period;

(b) The animal noise can be heard from a one block distance from the location of the building and premises where the animal is being kept, and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three minute period; or

(c) The animal noise can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for a period of at least five minutes with one minute or less lapse of time between each animal noise during the five-minute period.

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

(B) *Hourly restriction on certain operations.*

(1) *Recreational vehicles.* No person shall, between the hours of 10:00 p.m. and 7:00 a.m., drive or operate any minibike, snowmobile, or other recreational vehicle not licensed for travel on public highways or ditches.

(2) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any Monday through Saturday or between the hours of 9:00 a.m. and 9:00 p.m. on any Sunday or holiday. Snow removal equipment is exempt from this provision.

(3) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 6:00 a.m. and 10:00 p.m. on any Monday through Saturday or between the hours of 9:00 a.m. and 9:00 p.m. on any Sunday or holiday. Business/industrial zones are exempt.

(C) *Enforcement.*

(1) *Enforcement duties.* The Police Department shall enforce the provisions of this section. The Police Department may inspect private premises other than private residences and shall make all reasonable efforts to prevent violations of this section.

(2) *Civil remedies.* This section may be enforced by injunction, action for abatement, or other appropriate civil remedy.

(3) *Noise impact statements.*

(a) 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 Council.

(b) 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.

(Prior Code, § 92.08) (Ord. 209, passed 6-14-1999) Penalty, see § 92.99

## GRASS/WEEDS

### § 92.20 SHORT TITLE.

This subchapter shall be cited as the “Grass and Weed Ordinance”.

(Prior Code, § 92.20) (Ord. 234, passed 7-9-2007)

### § 92.21 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended, or repealed.

(Prior Code, § 92.21) (Ord. 234, passed 7-9-2007)

### § 92.22 DEFINITIONS; EXCLUSIONS.

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

**DESTRUCTION ORDER.** The notice served by the City Administrator or designated city official on the property owner of the ordinance violation.

**PROPERTY OWNER.** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license, or lease.

**WEEDS, GRASSES, AND RANK VEGETATION.** Includes, but is not limited to, the following:

(1) Noxious weeds and rank vegetation shall include, but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quakgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years:

(3) Bushes of the species of tall, common, or European barberry, further known as berberis vulgaris or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding eight inches;

(5) **RANK VEGETATION** includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

(6) The term **WEEDS** does not include shrubs, trees, cultivated plants, or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(Prior Code, § 92.22) (Ord. 234, passed 7-9-2007)

### § 92.23 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL, AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses, and rank vegetation or other uncontrolled plant growth on their property which, at the time of notice, is in excess of six inches in height.

(Prior Code, § 92.23) (Ord. 234, passed 7-9-2007; Ord. 2019-241, passed 8-12-2019) Penalty, see § 92.99

### § 92.24 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated, and filed with the City Administrator. If the city makes the complaint, an employee, officer, or Council member of the city shall file the complaint in all respects as set out above.

(Prior Code, § 92.24) (Ord. 234, passed 7-9-2007)

### § 92.25 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of grass or weeds in violation of this subchapter, the City Administrator, or his or her designated official, shall make an inspection of the property regarding the condition. The City Administrator, upon concluding that there is probable belief that this subchapter has been violated, shall forward a written notification in the form of a “Destruction Order” to the property owner.

(B) All notices are to be in writing and all filings are to be with the City Administrator.

(C) All notices provided herein shall be served in the same manner as a summons in a civil action in the District Court or by certified mail. Service on persons living temporarily or permanently outside of the city whose property is vacant or unoccupied may be made by sending the notice by certified mail to the last known address of such person, to be ascertained, if necessary, from the last tax list in the County Treasurer’s office.

(Prior Code, § 92.25) (Ord. 234, passed 7-9-2007)

#### **§ 92.26 APPEALS.**

(A) The property owner may appeal by filing written notice of objections with the City Administrator within 48 hours of the “destruction order”, excluding weekends and holidays, if the property owner contests the finding of the City Administrator. It is the property owner’s responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants, or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council members in attendance and being at a regularly scheduled or special meeting of the City Council.

(Prior Code, § 92.26) (Ord. 234, passed 7-9-2007)

#### **§ 92.27 ABATEMENT BY CITY.**

(A) If any such property owner fails to comply with the “destruction order” within seven days of such notice and has not filed a notice within 48 hours to the City Administrator of an intent to appeal, the city shall cause such grass or weeds to be cut and the expenses incurred shall be collected according to § 92.28.

(B) The city may employ the services of city employees or outside contractors and remove the grass or weeds to conform to this subchapter by all lawful means.

(Prior Code, § 92.27) (Ord. 234, passed 7-9-2007)

#### **§ 92.28 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting, or destruction of grass or weeds as defined by this subchapter.

(B) The property owner is liable for all collection costs associated with grass or weed destruction, including, but not limited to, court costs, attorneys fees, and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, equipment, supplies, and chemicals, it shall set and assign a rate of \$100 per hour with a one hour minimum. The city may also bill the property owner for the actual cost of any damages to city equipment accrued during the destruction of the grass or weeds, plus such sums as determined by the City Council to reimburse the city for its costs of inspection. Future establishment of fees may be done by city resolution.

(C) All sums owed by the property owner are to be billed and are payable to the city and are to be deposited in the General Fund as compensation for expenses and costs incurred by the city.

(D) All unpaid payables by the property owner may be collected as a special assessment against the real estate as provided by M.S. § 429.101, as it may be amended from time to time.

(Prior Code, § 92.28) (Ord. 234, passed 7-9-2007)

#### **§ 92.99 PENALTY.**

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) Violations of any of the provisions of § 92.05 shall be petty misdemeanors. The third violation and all subsequent violations within a one-year period of time shall constitute a misdemeanor.

(Prior Code, § 92.05)

(C) Any violation of § 92.08 involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, the violator shall be punished by a fine not to exceed \$100 (or the maximum fine allowed by law). Every person who violates any other provision of § 92.08 is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$700 (or the maximum fine allowed by law) or imprisonment for a term not to exceed 90 days, or both. In all cases the city shall be entitled to collect the costs of prosecution to the extent outlined by law, Rules of Criminal Procedure, and the Rules of Court. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

(Prior Code, § 92.08)

(Ord. 82-3, passed 6-28-1982; Ord. 209, passed 6-14-1999)

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## **CHAPTER 93: ANIMALS AND LICENSING**

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Section

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## **GENERAL PROVISIONS**

### **§ 93.01 DEFINITIONS.**

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

***ABANDONMENT.*** The releasing of a dog, cat, or other animal within the city under circumstances where the dog, cat, or other animal is thereafter found unleashed or otherwise unattended or restrained in the city. The failure of a person required by this chapter to pay any fee in connection with the restraint or impoundment of any dog, cat, or other animal this resulting in the dog, cat, or other animal remaining at the place of restraint or impoundment shall be deemed ***ABANDONMENT***. Circumstances amounting to a charge of running at large if occurring at a frequency more than two times in any 90-day period shall be deemed ***ABANDONMENT***.

***ACCESSORY BUILDING.*** A subordinate building or portion of a main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

***ANIMAL.*** Any mammal, reptile, amphibian, fish, bird (including fowl and poultry), or other member commonly accepted as part of the animal kingdom including, but not limited to, cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, pheasants, turkeys, chickens, rabbits, guinea hens, dogs, cats, and feathered fowl. ***ANIMALS*** shall be classified as follows.

(1) ***DOMESTIC ANIMALS.*** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) ***FARM ANIMAL.*** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (duck, geese, pheasant), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stables.

(3) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or

domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(a) Any member of the large cat family (family felidae) including lions, cougars, bobcats, leopards, and jaguars, but excluding accepted domesticated house cats;

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingos, and jackals, but excluding commonly accepted domesticated dogs;

(c) Any crossbreeds such as the crossbreed between a wolf and a dog or a coyote and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

(d) Any member or relative of the rodent family including any skunk, raccoon, squirrel, or ferret, but excluding those otherwise deemed or commonly accepted as domesticated pets;

(e) Any poisonous, venomous, constructing, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators; and

(f) Any other animal which is not explicitly listed above, but which can be reasonably defined by these definitions, including, but not limited to, bears, deer, monkeys, and game fish.

**ANIMAL ENCLOSURE.** Any building or portion thereof, structure, or area including pens, dog houses, kennels, and outside runs that are principally used or designed for use as a place for the keeping of animals. For purposes of this section, an electronic pet containment system shall not be deemed to be an **ANIMAL ENCLOSURE**.

**AT LARGE.** Whenever an animal is off the premises of its owner unless controlled by a leash not to exceed six feet in length with the following exception: while on the private property of another with the landowner's permission, provided the animal owner is present City Animal Shelter.

**BITE(S).** Has seized with the teeth or jaws so that the skin of the person or animal seized has been nipped or gripped, or has been wounded or pierced, and including, but not limited to, scratches, and including but not limited to probable contact of saliva with a break or abrasion of the skin. The term shall also include but not be limited to contact of saliva with any mucous membrane.

**CAT.** Both the male and female sex whether neutered or not of any variety of the Felidae family, including all varieties and species of the common or domestic cat whether the same are wild or tame.

**CHICKEN.** A domesticated fowl of the genus Gallus and species G. gallus.

**CHICKEN COOP.** Any structure used for the housing of chickens.

**CHICKEN RUN.** A fenced outside yard for the keeping of chickens.

**COMMERCIAL KENNEL.** An establishment wherein any person is engaged in the business of boarding, breeding, showing, treating or grooming, buying, letting for hire, training, for a fee or selling dogs or cats.

**CONFINED.** Restriction of an animal at all times by the owner, or his or her agent, to an escape-proof building or other enclosure, away from other animals and the public.

**DANGEROUS DOG** and **POTENTIALLY DANGEROUS DOG.** The terms have the same meanings as defined by M.S. § 347.50.

**DOG.** Both the male and female sex, whether neutered or not, of the Canidae family, including the common or domestic dog whether wild or tame.

**DOMESTICATED ANIMAL.** An animal domesticated by humans so as to live and breed in a tame condition.

**ELECTRONIC PET CONTAINMENT SYSTEMS.** A system created by the installation of conductors on the ground or under the ground which emit or cause to be emitted an electronic signal for the purpose of confining animals within a predetermined area.

**ENFORCING OFFICERS.** The Council is hereby authorized to appoint city personnel or law enforcement officers to enforce the provisions of this chapter. In the appointed personnel or law enforcement officer's duty of enforcing the provisions of this chapter, he or she may from time to time, with the consent of the City Council, designate assistants.

**EXCESSIVE KENNEL.** The keeping of four or more dogs on the same premises, whether owned by the same person or not, and for whatever purpose kept, shall constitute an **EXCESSIVE KENNEL**; except that a fresh litter of pups may be kept for a period of three months before such keeping shall be deemed to be an **EXCESSIVE KENNEL**. The keeping of four or more cats on the same premises, whether owned by the same person or not, and for whatever purpose kept, shall constitute an **EXCESSIVE KENNEL**; except that a fresh litter of kittens may be kept for a period of three months before such keeping shall be deemed an **EXCESSIVE KENNEL**.

**IMPOUND.** Seize and hold in legal custody.

**LEASH.** A chain, rope, or strap not to exceed six feet in length, attached to the collar or harness of an animal and used to lead it or hold it in check.

**LIVESTOCK.** Farm animals kept for use, pleasure, or profit, including, without limitation, horses, mules, sheep, goats, cattle, swine, and fowl.

**OWN.** To own, harbor, keep, or have custody of an animal or be the parent or guardian of a person under 18 years of age who owns, harbors, keeps, or has custody of an animal.

**OWNER.** Any person who owns, harbors, feeds, boards, keeps, or otherwise possesses an animal and is presumed to be the owner or tenant of the residence real estate at which the animal is normally kept, remains, or to which the animal returns; or the owner or manager in charge of the establishment or premises at which the animal is kept, remains, or to which it returns. Any parent or guardian of any non-emancipated minor owner under the age of 18 years of age shall be presumed to be the actual **OWNER** of the animal and the responsible party for the animal's care, control, licensing, and action.

**PERSON.** Includes an individual, a company, firm, partnership, corporation, trust, limited liability company, and any association of persons or other legal entity.

**PICKET.** To restrain an animal by means of a chain, leash, or other attachment to a fixed object, thereby confining the animal to a determined area.

**REAR YARD.** A portion of an improved lot between the principal building located on such lot and the rear lines of the lot, which space is unoccupied except for accessory buildings.

**RESIDENTIAL HOBBY KENNEL.** A place where three or more dogs or cats are kept. Wherein any person is engaged in the business of breeding.

**RESTRAINT.** The control of an animal under any of the following circumstances:

- (1) When it is controlled by a lead, line, or leash that is secured to a secure object of held by a person who is capable of controlling and governing the animal in question;
- (2) When it is within a fully enclosed vehicle;
- (3) When it is on the premises of the owner and/or custodian;
- (4) When it is restrained securely within an enclosure or fence; or
- (5) When it is under the physical control of the owner or custodian.

**ZONING.** Certain animals in R-1, R-2, B-1, and/or AG zoning districts.

(Ord. passed 8-11-2014)

### **§ 93.02 LICENSE REQUIREMENTS.**

(A) *Dog license required.* A license shall be required for every dog over the age of six months kept in the city. This shall not apply to any dog temporarily present within the city for a period of less than 30 days.

(B) *Proof of vaccination.* Proof of rabies vaccination must be presented at the time of initial licensing and each subsequent license renewal. The City Administrator shall not issue any license for a dog or cat until the applicant furnishes a certificate from a veterinarian certified indicating that the animal has been vaccinated for rabies within the preceding two years and any other mandated by laws of the state.

(C) *License fee.* Licenses for dogs and hen chickens shall be issued on an annual basis and shall expire on July 15 in the year following their issuance. License fees shall be set by the City Council by resolution and may be changed from time to time in the same manner.

(D) *Receipts and tags.* Upon payment of the license fee, the city shall deliver an original receipt to the owner and retain a duplicate of such receipt. At the time of initial licensing, the city shall also deliver a metallic tag to the owner of the dog. The City Administrator shall record the licenses issued. The annual license fee for male dogs or cats, neutered male dogs, spayed female dogs, and hen chickens shall be in accordance with the schedule set by resolution. In applying for the latter type license, written proof is required for a licensed veterinarian that the animal being licensed has been neutered or spayed.

(1) The owner shall cause the tag to be fastened to the collar of the dog with a permanent metal fastening in a manner so that the tag may be easily seen by the officers of the city.

(2) If a tag is lost, a duplicate tag may be issued by the city upon presentation of a receipt showing the payment of the license fee for the current year. The city shall charge a fee for each duplicate tag in the amount set forth in § 185 of this code.

(3) It shall be unlawful to counterfeit or attempt to counterfeit the tag or to take from any dog such a tag legally placed upon it by its owner with the intent to place it upon another dog, or to place such tag upon another dog.

(E) *Chicken license required.* A license shall be required for every hen chicken kept in the city.

(Ord. 183, passed 7-12-1994; Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.03 CONTROL OF ANIMAL.**

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks, cries, howls, yelps, or otherwise, produce noise that unreasonably disturbs the peace, quiet, or repose of a person or persons of ordinary sensibility.

(B) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for

cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others, or on public property.

(D) *Chasing vehicles or persons.* Any animal which habitually chases motor vehicles on public streets, or threatens, worries, or chases pedestrians, bicyclists, or other persons on public property, public areas, or private property other than property owned or possessed by the owner of the animal shall be deemed a public nuisance.

(E) *Attacking animals.* Any domesticated animal which attacks, wounds, worries, injures, or kills any domestic animal or wildlife shall be deemed a public nuisance.

(F) *Leash.* It should be properly anchored and if sufficient strength to prevent the animal from freeing itself.

(G) *Abandonment.* It is unlawful for any person to abandon a dog or other animal within the city.

(H) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 93.04.

(Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.04 IMPOUNDMENT.**

The city police officers may impound any animal found, or, by complaint of the city, believed to be, in violation of this section.

(A) *Notice.* If the identity of the owner of an impounded animal is known, the impounder of such animal shall notify such owner as soon after such impounding as is reasonably possible. If the identity of the owner of an impounded animal is not known, the impounder of such animal, within 24 hours of such impounding, shall file an impounding notice describing the animal and stating the date and place where it was seized. Such notice shall be filed at City Hall.

(B) *Redemption.* Any animal impounded for a reason other than rabies observation or for biting a person in violation of Subsection 93 may be redeemed from the designated animal shelter by its owner within five business days of impounding by paying to the city the redemption fees in the amounts set forth in § 185 and a license fee if the animal is required to be licensed and is unlicensed. The Police Department shall release any redeemed animal to its owner. Any animal seized as a dangerous animal shall be kept for seven regular business days after posting of notice for the owner to claim it. Any animal seized from the custody of an owner, kennel, or other person because of cruel or inhumane treatment will be held for not less than ten regular business days.

(C) *Animal disposal.* The Police Department may dispose of any animal either alive or deceased upon the request of its owner, the payment to the city of a fee in the amount set forth in § 185 of this code, and the receipt by the city of a liability release signed by such animal's owner.

(D) *Disposition of unredeemed animals.* Any animal not redeemed within five business days after impounding shall either be surrendered to the local humane society or painlessly disposed of or surrendered for research purposes to any educational or scientific institution licensed pursuant to state law. The fees for the disposal of unclaimed animals will be set by the designated animal shelter. If the owner of the animal is known and the owner does not pick up the animal after being notified, all charges will be billed to the owner of the animal.

(E) *Objection by owner; court order.* Any owner may object to the impounding or disposition of the animal by signing and filing an objection with the city within five days after the action objected to was taken. Within 20 days after impounding of an animal, if the animal is not redeemed or if the city is unable to reach agreement with the owner regarding the keeping of the animal in a manner consistent with the provisions of this section, the city may bring an action in the appropriate court by serving on the owner a complaint setting forth the violation of this section which caused the city to take action. The court may then order the return of the animal to its owner with or without payment of redemption fees by the owner; or the disposal, destruction, or sale of the animal; or, if the animal has been improperly disposed or sold, the payment to the owner of the reasonable value of the animal; or imposition on the owner of the same penalty as that for commission of a misdemeanor; or any two or more of the foregoing or any other remedy the court determines just and proper. When an objection has been filed with the city, the city shall not dispose of or sell the animal referred to in the objection if it is still in the pound, but shall within ten days after filing of such objection, either return the animal to the owner, without liability on the owner's part for any fees, or keep it pending agreement with the owner or order of the court as provided above. If the animal has been disposed of or sold without a court order, the city, after such filing, shall either pay to the owner the reasonable value of the animal or begin the action described in this division (E).

(Ord. passed 8-11-2014)

### **§ 93.05 SERVICE DOG.**

(A) Any properly identified service dog that aids persons who are totally or partially blind, deaf, or who have physical or sensory disabilities will be issued a dog license at no charge upon proof the dog has been certified as a service dog and has received a current rabies vaccination.

(B) Any properly identified law enforcement animal will be issued a dog license at no charge upon proof the dog has been certified as a service dog and has received a current rabies vaccination.

(Ord. passed 8-11-2014)

## **REGULATIONS**

### **§ 93.20 GENERAL PROHIBITION.**

(A) No person shall keep any animal in the city or permit the animal to be kept on the premises owned, occupied, or controlled by him or her, except under the conditions prescribed by this chapter.

(B) The following are permitted within the city: all animals normally identified as pets.

(Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.21 VICIOUS ANIMALS.**

(A) No person shall keep a dog or cat within the city when the animal has shown an unprovoked tendency to attack, bite, scratch, claw, or otherwise injure or attempt to injure any person.

(B) In addition to the penalties set forth in § 10.99, the owner, caretaker, or person in possession of a vicious dog or cat shall either destroy the animal or remove it permanently to a location outside the city.

(Ord. 183, passed 7-12-1994; Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.22 AREAS WHERE KEEPING PROHIBITED.**

No horse, pony, mule, donkey, cattle, swine, sheep, or goat shall be kept in the city, except within the agricultural zone.

(Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.23 MUZZLING PROCLAMATION.**

Upon written advice that a dog found in the city is infected with rabies or hydrophobia and that the safety and general welfare of the public is at risk, the Manager may order, by proclamation, that all dogs be muzzled when off the premises of the owner, and that all unmuzzled dogs found off the premises of the owner be immediately impounded. Forty-eight hours after the proclamation has been published, either by posting or printing in the official newspaper, the City Administrator may further order that all unmuzzled dogs found off the premises of the owner shall be impounded and destroyed, except that an officer may immediately destroy such an unmuzzled dog if it cannot be impounded with reasonable effort. Any dog impounded during the first 48 hours after the publishing of any such proclamation, if claimed within ten days and if not infected with hydrophobia or rabies, shall be returned to its owner after payment of all fees described in § 93.38, but after said ten days, such dog may be destroyed.

(Ord. passed 8-11-2014)

### **§ 93.24 ANIMALS AT LARGE.**

No person shall permit any animal of which he or she is the owner, caretaker, or custodian to be at large within the city. Any such animal is deemed to be at large when it is off the premises owned or rented by the owner or the owner's agent and not under the owner's individual restraint.

(Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.25 DISEASED ANIMALS.**

Any animal with a contagious disease shall be so confined that it cannot come within 50 feet of any public roadway or any place where animals belonging to or harbored by other persons are kept.

(Ord. passed 8-11-2014)

### **§ 93.26 CARE AND MAINTENANCE REQUIRED.**

(A) *Manner of keeping.*

(1) No person shall keep any animal in the city in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting, or other noise or in such a way as to permit the animal to annoy, injure, or endanger any person or property. A violation of this section shall be a misdemeanor.

(2) No owner shall fail to provide any animal with sufficient good food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. A person in charge or control of any dog which is kept outdoors or in a unhealed enclosure shall provide the dog with shelter and bedding as prescribed in M.S. § 343.40.

(B) *Care of premises.* No person shall permit feces, urine, or food scraps to remain in an area for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors. Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies, at least once per month from November 1 to April 1 of each year and once every week at other times. Unless used for fertilizer, manure shall be removed by hauling beyond the city limits. If used for fertilizer, manure shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

(C) *Maltreatment.* No person shall beat, treat cruelly, torment, or otherwise abuse any animal, or cause or permit any animal fights. No owner of an animal shall abandon such animal.

(Ord. passed 8-11-2014) Penalty, see § 92.99

### **§ 93.27 NOISE.**

(A) *Disturbing peace and quiet.* No person owning, operating, having charge of, or occupying, any building or premises shall keep or allow to be kept any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The phrase **UNREASONABLY DISTURB THE PEACE AND QUIET** shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including a law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal noise unreasonably disturbs the peace, quiet, or repose of a person or persons of ordinary sensibility. It shall be considered “disturbing peace and quiet” for any animal, including dogs and chickens to habitually or frequently make animal noises including barking, crying, howling, whimpering, or clucking.

(B) *Complaint.* Any person may call or deliver a complaint to the Police Department stating facts and circumstances of an alleged violation of this section. The Police Department shall investigate such complaint. If a violation occurs in the presence of a police officer, a summons may be issued. If probable cause of a violation exists, which violation did not occur in the presence of the police officer, all reports, witness statements, and evidence may be submitted to the City Prosecuting Attorney for a formal complaint.

(Ord. passed 8-11-2014)

#### **§ 93.28 KEEPING OF CERTAIN ANIMALS REGULATED.**

No person shall keep any rabbits, mice, hamsters, guinea pigs or other rodents, ferrets, or any bird on any premises used for residential purposes except in a metal cage so constructed that it may be completely and easily cleaned and that the animal or animals kept therein are completely enclosed and protected from children and animals on the outside. Such animals at all times shall be kept within the dwelling or an accessory building.

(Ord. passed 8-11-2014)

#### **§ 93.29 KEEPING OF CERTAIN ANIMALS PROHIBITED.**

No person shall keep within the city:

(A) Any livestock;

(B) Any mammal belonging to the order Carnivora except dogs, cats, and ferrets. For the purposes of this division (B), the bloodline of an individual animal must comprise not less than 51% domestic breeds;

(C) Honeybees and apiaries; or

(D) Venomous snakes.

(Ord. passed 8-11-2014)

#### **§ 93.30 CONFINEMENT OF CERTAIN ANIMALS.**

(A) *Animal in heat.* Any animal in heat shall be kept confined in a manner which will prevent its escape and access thereto by other animals.

(B) *Fierce animal.* Any domesticated animal of a fierce, dangerous, or vicious nature or disposition shall be confined in a manner which will prevent its escape and its causing harm to persons; and in a place from which it cannot be released except by its owner and except when muzzled and under the control of a competent person.

(Ord. passed 8-11-2014)

#### **§ 93.31 ANIMAL ENCLOSURE.**

(A) *Size and location.* Whether now existing or hereafter constructed, shall not exceed 300 square feet in area and shall be placed only in the rear yard and no closer than 20 feet to any property line. A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in M.S. § 343.40 as a minimum. Shade from the direct rays of the sun, during the months of May to October shall be provided. Dog house specifications are defined by M.S. § 343.40, Subd.2.

(B) *Electronic pet containment systems.* No electronic pet containment system shall be installed which allows any animal confined by the system to occupy any area within ten feet of a public sidewalk or within ten feet of the traveled portion of a public street if there is no public sidewalk. Electronic pet containment systems installed within any public right-of-way or public easement shall be owned and maintained by the owner of the system. The City Administrator may direct the removal or relocation of an electronic pet containment system from any public right-of-way or public easement at the sole cost and expense of the owner of the electronic pet containment system if the City Administrator determines the system interferes with the public’s use of the right-of-way or easement. The cost of any repair to electronic pet containment systems which are damaged due to the public’s use of a public right-of-way or public easement shall be borne solely by the owner of the system.

(C) *Picketing.* No dog shall be picketed in such a manner as to create a nuisance by reason of odor or unreasonably disturbing the peace and quiet as defined in ordinance 93.22 or which allows it to occupy any area within 20 feet of a property line.

(D) *Pens and yards.* All structures, pens, coops, or yards wherein animals are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Such structures shall be maintained in good condition and shall be sufficient in strength and size to allow the particular animal being kept to move about, but also able to prevent the escape of the animal.

(Ord. passed 8-11-2014)

## § 93.32 DANGEROUS DOGS.

(A) *Adoption by reference.* Except as otherwise provided in this section, the regulatory and procedural provisions of M.S. §§ 347.50 to 347.565 (commonly referred to as the “Dangerous Dog Regulations”), are adopted by reference.

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

**DANGEROUS DOG.** A dog that:

- (a) Has, when unprovoked, inflicted substantial bodily harm on a human being on public or private property;
- (b) Has killed a domestic animal when unprovoked while off the owner’s property;
- (c) Has attacked one or more persons on two or more occasions; or
- (d) Has been found to be potentially dangerous and after the owner has notice of the same, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

**DOG.** Both the male and female of the canine species, commonly accepted as domesticated household pets.

**GREAT BODILY HARM.** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

**OWNER.** Any person or persons, firm, corporation, organization, department, or association owning, possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

**MAINTENANCE COSTS.** Any costs incurred as a result of seizing an animal for impoundment, including, but not limited to, the capturing, impounding, keeping, treating, examining, securing, confining, feeding, destroying, boarding, or maintaining seized animals, whether these services are provided by the city or the pound.

**POTENTIALLY DANGEROUS DOG.** A dog that:

- (a) Has, when unprovoked, inflicted a bite on a human or domestic animal on public or private property;
- (b) Has, when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the owner’s property, in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

**PROPER ENCLOSURE.** Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A **PROPER ENCLOSURE** does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The **ENCLOSURE** shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- (a) A minimum overall floor size of 32 square feet;
- (b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;
- (c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches; and
- (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.

**SUBSTANTIAL BODILY HARM.** Bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or that causes a fracture of any bodily member.

**UNPROVOKED.** The condition in which the dog is not purposely excited, stimulated, agitated, or disturbed.

(C) *Declaration of dangerous or potentially dangerous dog.*

(1) A police officer, community service officer, or animal control officer may declare a dog to be dangerous or potentially dangerous when the officer has probable cause to believe that a dog is dangerous or potentially dangerous. The following factors will be considered in determining a dangerous or potentially dangerous dog:

- (a) Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog’s offspring within the immediate vicinity of the dog from an unjustified attack or assault;
- (b) The size and strength of the dog, including jaw strength, and the animal’s propensity to bite humans or other domestic animals; and

(c) Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained, or encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia, or drugs used to prepare such dogs to fight with other animals.

(2) Beginning six months after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training, or other factors. If enough evidence is provided, the city may rescind the designation.

(3) Exceptions include the following.

(a) The provisions of this section do not apply to dogs used by law enforcement.

(b) Dogs may not be declared dangerous or potentially dangerous if the threat, injury, or danger was sustained by a person who was:

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
2. Provoking, tormenting, abusing, or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or
3. Committing or attempting to commit a crime.

(D) *License required.* The owner must annually license dangerous and potentially dangerous dogs with the city and must license a newly declared dangerous or potentially dangerous dog within 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal that may be requested, the owner must comply with the requirements of M.S. § 347.52(a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration.

(1) *Process for dangerous dogs.* The city will issue a license to the owner of a dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) Written proof that there is a surety bond by a surety company authorized to conduct business in the state in the sum of at least \$300,000, payable to any person injured by a dangerous dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in the state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. Such surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the city is notified in writing by the surety company or the insurance company at least ten days prior to such cancellation;

(c) The owner has paid the annual license fee;

(d) The owner has had a microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense; and

(e) The owner provides proof that the dog has been sterilized. If the owner does not sterilize the dog within 30 days, the city shall seize the dog and sterilize it at the owner's expense.

(2) *Process for potentially dangerous dogs.* The city will issue a license to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) The owner has paid the annual license fee; and

(c) The owner has had a microchip identification implanted in the potentially dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense.

(3) *Inspection.* A pre-license inspection of the premises to ensure compliance with the city code is required. If the city issues a license to the owner of a dangerous or potentially dangerous dog, the city shall be allowed at any reasonable time to inspect the dog, the proper enclosure, and all places where the animal is kept.

(4) *Warning symbol.* The owner of a dangerous dog licensed under this section must post a sign with the uniform dangerous dog warning symbol on the property in order to inform children that there is a dangerous dog on the property. The sign will be provided by the city upon issuance of the license.

(5) *Tags.* A dangerous dog licensed under this section must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the city upon issuance of the license.

(6) *License fee.* The city will charge the owner an annual license fee for a dangerous or potentially dangerous dog.

(E) *Properly restrained in proper enclosure or outside of proper enclosure.* While on the owner's property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere

with its vision or respiration.

(F) *Notification requirements to city.*

(1) *Relocation or death.* The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Administrator in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside of the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.

(2) *Renter's obligations.* A person who owns or possess a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potentially dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keep the dog on the property.

(3) *Transfer of ownership into the city.* No dog that has been previously determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned, or harbored in the city unless the dog's owner complies with the requirements of this section prior to bringing the dog into the city. Dogs in violation of this division (F)(3) are subject to impoundment and destruction.

(G) *Seizure.* Animal control may immediately seize any dangerous or potentially dangerous dog if:

(1) Fourteen days after the owner has notice that the dog is declared dangerous or potentially dangerous, the dog is not validly licensed and no appeal has been filed;

(2) Fourteen days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required or such required insurance is cancelled;

(3) The dog is not maintained in a proper enclosure;

(4) The dog is outside the proper enclosure and not under proper restraint, as required by § 93.31;

(5) Thirty days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by division (D)(1)(e) above; or

(6) The dog's microchip has been removed.

(H) *Reclamation.* A dog seized under division (G) above may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to animal control that the requirements of this section have been met. A dog not reclaimed under this division (H) within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of the date seized.

(I) *Subsequent offenses; seizure.* If a person has been convicted of violating a provision of this section, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized. If the owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the owner pay the maintenance costs. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of, used for research, or destroyed.

(J) *Notice; hearings.*

(1) *Notice.* After a dog has been declared dangerous or potentially dangerous or has been seized for destruction, the city shall give notice by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

(a) A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place, and circumstances under which the dog was declared; and the telephone number and contact person where the dog is kept;

(b) A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing;

(c) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of M.S. § 347.52(a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until such time as the hearing officer issues an opinion;

(d) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of M.S. §§ 347.51, 347.515, and 347.52;

(e) A form to request a hearing; and

(f) A statement that if the dog has been seized, all maintenance costs of the care, keeping, and disposition of the dog pending the outcome of the hearing are the responsibility of the owner, unless a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

(2) *Right to hearing.*

(a) After a dog has been declared dangerous, potentially dangerous, or has been seized for destruction, the owner may appeal in

writing to the city within 14 days after notice of the declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing. The owner must pay a fee set forth in § 185 for an appeal hearing.

(b) The appeal hearing will be held within 14 days of the request. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(c) If the declaration or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000, as well as all maintenance costs, will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision shall be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the city. The decision of the hearing officer is final.

(K) *Destruction of certain dogs.* The Police Chief and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to division (J) above and upon a finding that:

(1) The dog has habitually destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;

(2) The dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired, and the owner has failed to comply with the provisions of this section;

(3) It is determined that the dog is infected with rabies;

(4) The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;

(5) The dog inflicted multiple bites on a human on public or private property without provocation;

(6) The dog bit multiple human victims on public or private property in the same attack without provocation;

(7) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or

(8) The dog poses a danger to the public's health, safety, or welfare. In determining whether the dog poses a danger to the public's health, safety, or welfare, the following factors may be considered:

(a) The dog weighs more than 20 pounds;

(b) The strength of the dog, including jaw strength;

(c) The dog's tolerance for pain;

(d) The dog's tendency to refuse to terminate an attack;

(e) The dog's propensity to bite humans or other domestic animals;

(f) The dog's potential for unpredictable behavior;

(g) The dog's aggressiveness; and

(h) The likelihood that a bite by the dog will result in serious injury.

(L) *Concealing of dogs.* No person may harbor, hide, or conceal a dog that the city has the authority to seize or that has been ordered into custody for destruction or other proper disposition.

(M) *Dog ownership prohibited.*

(1) Except as provided below, a person shall not own a dog if the person has been:

(a) Convicted of a third or subsequent violation of § 93.31(D), 5, or 6 or M.S. §§ 347.51, 347.515, or 347.52;

(b) Convicted of second degree manslaughter due to negligent or intentional use of a dog under M.S. § 609.205 (4); or

(c) Convicted of gross misdemeanor harm caused by a dog under M.S. § 609.226, Subd. 1.

(2) Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation shall be impounded until due process is completed, pursuant to division (J) above.

(3) If any member of a household is prohibited from owning a dog in divisions (M)(1) or (M)(2) above, unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.

(N) *Dog ownership prohibition review.* Beginning three years after a conviction under division (M) above that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Police Chief that the city review the prohibition. The city may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the city rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

(Ord. passed 8-11-2014)

### **§ 93.33 LIMITATION OF QUANTITY OF ANIMALS.**

(A) No person shall own, keep, harbor, or have custody of more than four dogs, cats, and certain animals which two can be dogs, as defined under § 93.28, in the aggregate which are over six months of age shall be kept or harbored at any place in the city, except in a pet shop, animal hospital, or commercial kennel, unless a permit has been issued pursuant to this section by the Council. Any additional animals would require a special permit from the city.

(B) No more than six chickens shall be maintained at any one residence or premises. Hen chickens may be kept within the residential district. The keeping of roosters is prohibited. Chickens shall not be raised or kept for fighting. Cockfighting and dogfighting are prohibited.

(1) *Permit application and hearing.* Persons who wish to keep or harbor more than the number of dogs or cats and certain animals as defined under § 93.28 permitted by this division (B)(1) may apply for a permit from the Council. After the receipt of the permit application, and the fee as set forth in section 185 of this Code, the Council shall conduct a public hearing regarding the application considering each permit application on a case by case basis and consulting the city's Police Department to determine whether or not to conduct a public hearing. If the Council determines that a public hearing will be held, a notice of the date, time, place, and purpose of the hearing shall be mailed at least ten days before the date of the hearing to each owner of property situated wholly or partly within 350 feet of the property to which the application relates.

(2) *Issuance of permit.* After hearing the oral and written views of all interested persons, the Council shall make its decision. The Council shall not grant a permit unless it finds that keeping or harboring more than the allowed number of dogs or cats on the applicant's property:

- (a) Will not be a nuisance; and
- (b) Will not be detrimental to the public health and safety of the applicant or other persons in the vicinity.

(3) *Permit not transferable.* No permit may be transferred to any person or place by the person or from the place to whom and for which the permit was granted. The permit shall be granted only for the animals described in the application. No animals described in the application may be replaced by the applicant without first obtaining a new permit from the Council.

(C) *Conditions and restrictions.*

(1) The Council may impose conditions and restrictions as it deems necessary for the protection of the public interest and adjacent properties and to ensure compliance with the requirements of this section and other applicable provisions of this Code. Each permit issued pursuant to this section shall remain in effect only so long as the conditions and restrictions imposed by the Council are observed and not violated.

(2) No person shall conduct any business of selling, boarding, commercial, breeding, or treating animals without obtaining a kennel license. Kennel license shall be issued on an annual basis and shall be made for the whole or unexpired portion of the year ending December 31 next following the effective date of the license. The fee for the kennel license shall be provided in § 185.

(Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.34 CENSUS TAKING.**

The city may, at its option, and at such intervals, utilizing appropriate notice to the public, that an employee suitable persons upon such terms and conditions as it may see fit, to make a house-to-house census and issue warnings to owners then and there to procure their rabies shots and licenses. The city shall impose such additional charge for each license issued in the course of such census as set forth in § 185.

(Ord. passed 8-11-2014)

### **§ 93.35 CITY WIDE LEASH REGULATION.**

All dogs and cats shall, at all times while out of doors, (except on the property of the owner or person having the control thereof) in the city, be on leash and the owner and/or person in control thereof shall at all times have in possession tools or equipment suitable for the sanitary pick-up, removal, and ultimate disposal in a sanitary fashion of all animal fecal material. To not have such tools or equipment when animals are on leash and out of doors, is a violation of this section.

(Ord. passed 8-11-2014) Penalty, see § 93.99

### **§ 93.36 COMMERCIAL KENNEL.**

No person shall maintain a commercial or residential hobby kennel without first having obtained a license pursuant to the provisions of this section. Commercial kennels must comply with zoning regulations, and are not allowed in B-1, R-1, and R-2 zoned districts.

(A) *Kennel license application.*

(1) The application for a commercial or hobby residential kennel license or renewal thereof shall contain or have attached thereto, a detailed plan and description of the premises and structures wherein the kennel is to be operated, unless the application is for renewal of a previous license and no change in the premises or structure has been made or is contemplated to be made.

(2) In addition to the license required herein, the applicant for a commercial kennel license must also secure a conditional use

permit. Each kennel license shall be posted conspicuously on the premises where said kennel is located.

(B) *Kennel license fee.*

(1) The fee for a commercial kennel license shall be in the amount set forth in § 185 of this Code. The license application shall state the name and address of the kennel owner, the type of kennel, the location of the kennel, and the number of animals proposed to be kept. The license to operate a kennel shall be for one year and shall expire on December 31 of each year.

(2) Each application for a license shall include payment of a fee as established by the City Council from time to time.

(C) *Condition of kennel.* A commercial kennel shall be kept at all times in a clean, sanitary, and well-ventilated condition at all times, and shall be open to inspection by a police officer of the city at all reasonable times. The animals shall be reasonably restrained from annoying the neighborhood of the general public.

(D) *Outside runs prohibited.* No commercial kennel shall provide outside runs or penned areas designed for the confinement of animals outside of the principal building.

(E) *Revocation.* Any kennel license may be revoked by the Council by reason of any violation of this code, or by reason of the violation of any health or nuisance ordinance, order, law, or regulation.

(Ord. passed 8-11-2014) Penalty, see § 93.99

**§ 93.37 CHICKENS WITHIN CITY LIMITS.**

(A) *Confinement.* Every person who owns, controls, keeps, maintains, or harbors hen chickens must keep them confined on the premises at all times in a chicken coop or chicken run while in the city. Chickens are not allowed to be located in any part of the home and/or garage.

(B) *Chicken coops and chicken runs.*

(1) Any chicken coop and run fencing must be consistent with building and zoning codes.

(2) No chicken coop or run shall be constructed on any lot prior to the time of construction of the principal building.

(3) Chicken coops and runs shall not be in the front or side yard.

(4) Any chicken coop or run shall be set back at least 50 feet from any residential structure on any adjacent lots and ten feet from the property line.

(5) Any coop or run shall be screened from view with a solid fence or landscaped buffer with a minimum height of four feet.

(6) All chicken coops must have a maximum size of ten square feet per chicken and must not exceed six feet in total height. Fenced in chicken runs must not exceed 20 square feet per chicken and fencing must not exceed six feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens to contact the ground. Chicken runs must have a protective overhead netting to keep the chickens separated from other animals.

(7) Chicken coops must be elevated a minimum of 12 inches and a maximum of 24 inches above grade to ensure circulation beneath the coop.

(8) Chicken grains and feed must be stored in rodent proof containers.

(C) *Condition and inspection.* No person who owns, controls, keeps, maintains, or harbors hen chickens shall permit the premises where the hen chickens are kept to be or remain in an unhealthy, unsanitary, or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and chicken run authorized under this chapter may be inspected at any reasonable time by the city animal control officer or other agent of the city.

(Ord. passed 8-11-2014) Penalty, see § 93.99

**§ 93.38 ANIMAL FEES.**

<i>Animal Fees</i>	
<i>Animal Fees</i>	
Animal abandonment	\$50
Commercial kennel license	\$200
Dangerous and potentially dangerous dog annual license	\$250
Disposal fee	\$100
Duplicate license	\$5
Impounding	\$100
Non-spayed	\$20
Permit fee for application and public hearing	Cost + 10%
Spayed	\$10

(Ord. passed - -)

**§ 93.99 PENALTY.**

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) (1) Unless stated otherwise, any person who violates a provision of § 93.32 is guilty of a misdemeanor.

(2) Any person who is convicted of a second or subsequent violation of any provision of § 93.32(D), (E), or (F) is guilty of a gross misdemeanor.

(3) Any person who violates § 93.32(M), whether an owner or household member, is guilty of a gross misdemeanor.

(Ord. passed 8-11-2014)

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## **CHAPTER 94: LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS**

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Section

- 94.01 General policy
- 94.02 Assessment policies applicable to all improvements
- 94.03 Assessment units
- 94.04 Improvement classifications and procedure
- 94.05 Responsibilities for payment of improvements
- 94.06 Deferment of assessments
- 94.07 Partial prepayment
- 94.08 Certification of assessments

**§ 94.01 GENERAL POLICY.**

When an improvement is of special benefit to properties in a definable area, it is the intent of this chapter to levy special assessments on the benefitted properties to finance such improvements. Improvement costs shall, whenever possible, be assessed in full against the benefitted property. All special assessment improvements shall be made in accordance with this chapter and the requirements of M.S. Chapter 429 et seq., as it may be amended from time to time.

(Prior Code, § 94.01) (Ord. 206, passed 4-14-1997)

**§ 94.02 ASSESSMENT POLICIES APPLICABLE TO ALL IMPROVEMENTS.**

(A) Improvements for construction of water distribution lines, sewage lines, storm drainage, curb and gutter, street improvements, sidewalks, lighting, or other assessment improvements may be undertaken upon City Council initiation or petition of the affected property owners. The City Council shall, by resolution, determine whether or not the petition has been signed by the required percentage of owners of the property affected by such petition.

(B) Where an improvement is of special benefit to properties in a definable area, it is the intent to levy special assessments on the benefitted properties. Improvement costs shall, whenever possible, be assessed in full against the benefitted property, thereby keeping the improvement costs chargeable to the city to a minimum. The following general principles shall be used as a basis of the city's assessment policy:

(1) The project cost of an improvement shall be deemed to include the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing, rights-of-way, and other contingent costs;

(2) Where the project cost of an improvement is not entirely attributable to the need for service to the area served by the improvement, or where unusual conditions beyond the control of the owners of the property in the area served by the improvement would result in an inequitable distribution of special assessments, the city, through the use of other funds, may pay such city costs which, in the opinion of the City Council, represents the excess cost not directly attributable to the area served;

(3) If financial assistance is received from the federal government, from the State of Minnesota, or from any other source to defray a portion of the costs of a given improvement, the aid will be used first to reduce the city cost of the improvement. If the financial assistance received is greater than the normal city cost, the remainder of the aid will be used to reduce the special assessments against the benefitting properties, with such reduction to be applied on a pro rata basis;

(4) The assessable cost of an improvement shall be defined as being those costs which, in the opinion of the City Council, are attributable to the need for service in the area served by the improvement. The assessable cost shall be equal to the project cost of the current project as defined above, minus city cost as defined above, minus other financial assistance credited as above described;

(5) City-owned properties, including municipal building sites, parks, and playgrounds, but not including public streets and alleys, shall be regarded as being assessable on the same basis as if such property was privately owned;

(6) Assessments may be spread over such period of time as the Council shall approve; and

(7) In the event the literal application of the provisions outlined herein would result in an inequitable distribution of special assessments, the City Council reserves the right to adjust the policy so as to achieve a more equitable distribution.

(Prior Code, § 94.02) (Ord. 206, passed 4-14-1997)

### **§ 94.03 ASSESSMENT UNITS.**

Each lot or parcel shall be assessed on the basis of its share of the appropriate assessable units. Assessable units shall be in terms of adjusted frontage, area, or lot.

(A) Adjusted frontage shall be calculated by the following procedure and shall be expressed to the nearest 0.1 (tenth) foot.

(1) For rectangular interior lots: the frontage shall be equal to the dimension of the side of the lot abutting the improvement.

(2) For rectangular corner lots: the frontage shall be the legal address side of the lot. The other side of the lot shall be considered the side lot.

(3) For irregularly shaped, interior lots with four sides or less: the frontage shall be equal to the average width of the lot.

(4) For lots having more than four apparent sides which could be subdivided per city codes (L- shaped and the like), the adjusted frontage shall be equal to the front of a normal rectangular lot with 150 feet of depth and the same total area (area divided by 150) of irregular non-four-sided lot.

(5) For sewer and water improvements adjacent to corner or end lots: the assessed footage of the lot shall be the lot length upon which the sewer or water service is connected.

(6) Where frontage roads along highways are deemed of benefit to commercial and industrial properties, the entire costs of any improvements on such frontage roads shall be assessable to the adjacent properties, even if only those properties on one side of such frontage roads are benefitted.

(B) **AREA** shall be defined as the gross area of the parcel or lot, which is benefitted, in terms of square feet or acres. All property within district boundaries is to be included. District boundaries shall be determined by the Director of Public Works or the City Engineer.

(C) When the City Council determines that the assessable costs would be more equitably distributed on a unit basis, the assessable unit may be the lot (a uniform per lot assessment), an REC (residential equivalent connection), or other equitable unit adopted by the Council.

(Prior Code, § 94.03) (Ord. 206, passed 4-14-1997; Ord. 225, passed 10-20-2003)

### **§ 94.04 IMPROVEMENT CLASSIFICATIONS AND PROCEDURE.**

Public improvements are classified into three categories: surface improvements, subsurface improvements, and drainage improvements. The following procedures shall affect the assessment of any improvement ordered by the Council.

(A) *Surface improvements.* Surface improvements shall include grading and base construction, curb and gutter, surfacing, resurfacing, ornamental street lighting, and sidewalks.

(1) In all streets prior to street construction and surfacing or prior to resurfacing, all utilities and utility service lines (including sanitary sewers, water lines, and gas and electric service) shall be installed to serve each known or assumed building location. No surface improvements to less than both sides of a full block of street shall be approved except as necessary to complete the improvement of a block, which has previously been partially completed.

(2) The city pays for curb and gutter across intersections and alleys.

(3) The assessable unit to be used for all surface improvements, unless otherwise specified by the Council, shall be the adjusted frontage of the property. In the case of surface improvements to irregular shaped lots on a cul-de-sac, the assessment unit shall be the lot and assessable costs shall be spread on a per lot basis.

(4) Thirty percent of the cost of new or reconstructed sidewalks shall be assessed against the benefitted property owners on the basis of a footage charge. Interest rate and length of assessment will be determined by the City Council.

(5) Costs for resurfacing or required overlays shall be assessed 30% to the benefitting, abutting property owners and 70% of the costs will borne to the city. The assessment will be on an adjusted frontage front foot basis. The city shall not participate in any portion of a project other than the actual bituminous overlay. The costs of any other material or any other project work involved in an overlay project shall be borne by the abutting property owners.

(6) The city pays for street surface reconstruction across intersections and alleys.

(7) Street surface costs for side lots are assessed at one-half the unit rate of a front lot. The city pays for the one-half of the cost for a side lot frontage. (25% to each side of the street for front lot situations, therefore  $2 \times 25\% = 50\%$  assessed).

(8) Assessed curb and gutter lengths are actual constructed lengths adjacent to individual lots. The curb length may be more or less

than the platted lot lengths due to curve or radii calculations.

(9) Residential property owners pay residential rate and commercial property owners pay commercial rate when there is a minimum nine-ton street surface area.

(B) *Subsurface improvements.* Subsurface improvements shall include water distribution lines, sump pump lines, and sanitary sewer lines.

(1) Subsurface improvements shall be made to serve current projected land use. All installations shall conform to the minimum standards therefor as established by those state and/or federal agencies having jurisdiction over the proposed installations. All installations shall also comply with the maximum extent feasible, to such quasi-official, nationally recognized standards as those of the American Insurance Association. Service lines to each known or assumed building location shall be installed in conjunction with the construction of the mains.

(2) Trunk sewers include lift stations, force mains, and oversized or overly deep systems, which are designed as major collectors.

(3) Trunk water systems include towers, hydrants, valves, and necessary over-sizing.

(4) Sanitary sewer lines, up to and including a maximum size of eight inches, shall be assessed on a front footage basis to the benefitted properties. The assessable cost shall be the entire improvement cost for such lateral lines.

(5) Water distribution lines, up to and including a maximum size of eight inches, shall be assessed on a front foot basis. Assessable costs for lateral water distribution lines shall include valves, hydrants, and distribution lines.

(C) *Drainage improvements.* Drainage improvements shall include all storm sewers, ponding areas, ditches, ground water control systems, or other installations for the control of storm water or ground water. Drainage improvements shall be made to serve current and projected land use. All improvements for carrying water shall provide protection based on a design frequency established by the engineer or higher if requested by the benefitted owners. Storage sites and ponding areas shall be designed to provide a frequency of protection designated by the engineer, but in no case shall the design allow damage to permanent structures at frequencies less than 50 years.

(Prior Code, § 94.04) (Ord. 206, passed 4-14-1997; Ord. 225, passed 10-20-2003)

#### **§ 94.05 RESPONSIBILITIES FOR PAYMENT OF IMPROVEMENTS.**

The apportionment of the cost between benefitted property and the city at large and the method of levying assessments prescribed in this chapter shall be as follows:

(A) New streets: property owner pays 100%;

(B) Reconstructed streets: property owner pays 30% and city pays 70%;

(C) New curb and gutter: property owner pays 100%;

(D) Reconstructed curb and gutter: property owner pays 30% and city pays 70%;

(E) New storm sewer: city pays 100%;

(F) Reconstructed storm sewer: city pays 100%;

(G) New water main: property owner pays 100%;

(H) Reconstructed water main: city pays 70% and property owner pays 30%;

(I) New water service: property owner pays 100%;

(J) Reconstructed water service: property owner pays 100%;

(K) New sanitary sewer: property owner pays 100%;

(L) Reconstructed sanitary sewer: city pays 70% and property owner pays 30%;

(M) New sanitary service: property owner pays 100%; and

(N) Reconstructed sanitary service: property owner pays 100%.

(Prior Code, § 94.05) (Ord. 206, passed 4-14-1997; Ord. 225, passed 10-20-2003)

#### **§ 94.06 DEFERMENT OF ASSESSMENTS.**

(A) *Deferment of special assessments outside of corporate limits.* If the city installs utility facilities which benefit property which lies outside the corporate limits, that area and the allocable costs shall be included in the original public hearing for the improvement. The city may attempt to negotiate a contract with the property owner of the property lying outside the city which will provide for payment to the city on the same basis as if the property were within the city and to be assessed for the improvement as a prepayment upon completion of the project. If such a contract cannot be executed, the city will assume the temporary responsibility for payment of the cost allocable to the property lying outside the city limits. In that event, the original principal amount of the assessment, if it had been assessed, plus accumulated interest, shall be increased annually by a percentage to be determined by Council up to a maximum of 15 years for which no payment is made. At the time of annexation of the property to the city, a subsequent public hearing may be held for that property and an assessment roll prepared, adopted, and certified to the County Auditor, payable at the same rate and terms except for

the total amount as were applicable to other property owners included in the original assessment. The city shall reserve the right to delay the assessment of benefit for facilities previously installed and to make such assessment at the same time it causes to be constructed other public improvements on the property following its annexation. When property lies outside the city limits, no physical connection to the city's utility or drainage system will be permitted until a utility agreement and contract, including satisfaction of costs or assessments, is executed.

(B) *Deferment of special assessment for senior citizens.*

(1) *Criteria.* In determining whether or not a senior citizen is eligible for deferral of special assessment installment payments, the following criteria are established.

(a) Senior citizens special assessment hardship deferral applies to special assessments levied after the date of the adoption of this chapter.

(b) Senior citizens special assessment hardship deferral applies to qualifying special assessments against all properties classified as homestead pursuant to M.S. Chapter 273, as it may be amended from time to time, where one or more of the owners of such property is 65 years of age or older and it would create a hardship for the owner or owners of the property to pay the special assessment installments as they become due.

(c) It shall be presumed that a hardship exists if:

1. The person is at or below the federal poverty level; and
2. All owners of the property verify, under oath, that they meet the criteria for establishing a hardship by completing an application provided by the city.

(d) In cases where exceptional and unusual circumstances exist, the City Council may determine that a hardship exists despite the fact that the minimum income requirements of this section are not met; such cases shall be decided by the Council on a case by case basis.

(2) *Interest.* Interest shall be charged on any assessment deferred pursuant to this chapter at a rate equal to the rate charged on other assessments for the particular public improvement project the assessment is financing.

(C) *When deferred.* The deferment shall be granted upon a certification by the owner on a form prescribed by the County Assessor supplemented by the Administrator to establish the qualification of the owner for such a deferment. The application shall be made within 30 days after the adoption of the assessment roll by the Council and shall be renewed each following year upon the filing of a similar application not later than May 31. The Council shall either grant or deny the deferment and, if it grants the deferment, it may require the payment of the interest due each year. If the Council grants the deferment, the Administrator shall notify the County Auditor and the County Assessor who shall, in accordance with M.S. § 444.23, as it may be amended from time to time, record a notice of the deferment with the register of deeds setting forth the amount of the assessment.

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

- (1) The death of the property owner 65 years of age or older, providing the surviving owner is otherwise not eligible for deferment;
- (2) The sale, transfer, or subdivision of all or any part of the property;
- (3) Loss of homestead status on the property;
- (4) Determination by the Council for any reason that there would be no hardship to require immediate or partial payment;
- (5) Failure to file a renewal application within the time prescribed by this section; or
- (6) At the request of the property owner.

(E) *Procedure for termination.* Upon the occurrence of one of the events specified in this section, the Council shall terminate the deferment. Thereupon, the Administrator shall notify the County Assessor and the County Auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall become due and payable as a result of the termination.

(Prior Code, § 94.06) (Ord. 206, passed 4-14-1997)

#### **§ 94.07 PARTIAL PREPAYMENT.**

After the adoption by the Council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment or the first installment to the County Auditor, pay to the Administrator any portion of the assessment. The remaining unpaid balance shall be spread over the period of time established by the Council for installment payment of the assessment.

(Prior Code, § 94.07) (Ord. 206, passed 4-14-1997)

#### **§ 94.08 CERTIFICATION OF ASSESSMENTS.**

After the adoption of any special assessment by the Council, the Administrator shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the County Auditor to be extended on the proper tax lists of the county.

## TITLE XI: BUSINESS REGULATIONS

### Chapter

- 110. GENERAL LICENSING AND REGULATIONS
- 111. PEDDLERS AND SOLICITORS
- 112. ALCOHOLIC BEVERAGES
- 113. TATTOO AND BODY PIERCING ESTABLISHMENTS

## CHAPTER 110: GENERAL LICENSING AND REGULATIONS

### Section

#### *General Provisions*

- 110.01 Licenses and permits
- 110.02 Fees
- 110.03 Duration of license
- 110.04 Transfers
- 110.05 Inspection
- 110.06 Duties of licensee
- 110.07 Suspension or revocation

#### *Public Dances*

- 110.20 Regulation of public dances

#### *Theaters and Entertainment Establishments*

- 110.35 Permit required
- 110.36 Application for license and term
- 110.37 Number of licenses
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## GENERAL PROVISIONS

### § 110.01 LICENSES AND PERMITS.

(A) *General rule.* Except as otherwise provided in this chapter, all licenses and permits granted by the city shall be governed by the provisions of this subchapter.

(B) *Acts prohibited.* No person shall conduct any activity or use any property for which a license or permit is required by state or federal law or this chapter without a currently valid license or permit for such activity or use.

(C) *Application.* Every application for a license shall be made to the Administrator on a form provided by the City Administrator. It shall be accompanied by payment to the Administrator of the prescribed fee. If, after investigation, the Administrator is satisfied that all requirements of law and this code have been met, the Administrator shall present the application to the Council for action, or, if the license or permit does not require Council approval, the license or permit shall be issued.

(D) *Bond.* Where a bond is required for any license or permit, the bond shall be a corporate surety bond executed on a form approved by the City Attorney and shall be filed with the Administrator before the license or permit is issued. Except where otherwise provided, a bond shall be in the amount of \$500, conditioned that the licensee or permittee shall comply with the applicable code and laws pertaining to the licensed or permitted activity and that the licensee or permittee will indemnify the city and save it harmless from all loss or damage by reason of inadequate work performed by the licensee or permittee or agent of the same, or by reason of accident caused by the negligence of the licensee or permittee, agents or employees.

(E) *Insurance.*

(1) When a licensee or permittee is required to have in force a policy of insurance, the policy shall be approved as to substance and form by the City Attorney. The policy shall provide that it is noncancellable without a 15 days' notice to the city, and the coverage shall be for the term of the license or permit. Satisfactory evidence of coverage by insurance shall be filed with the Administrator before the license or permit is issued. Each license or permit shall terminate upon termination of the required insurance coverage.

(2) Unless otherwise provided, a required policy of liability insurance shall provide for protection in at least the following amounts:

(a) For injuries, including death therefrom, sustained by any one person: \$100,000;

(b) For injuries, including death resulting therefrom, sustained by two or more persons as the result of any one occurrence: \$100,000 per individual; and

(c) For property damage: \$300,000.

(Prior Code, § 110.01)

**§ 110.02 FEES.**

(A) *Fee established.* License fees are in the amounts established in the governing sections of this subchapter or as otherwise provided in this code. The compilation of all fees is maintained for convenience and reference only. The license and permit fees as set forth in the various sections of this chapter are the official and controlling provisions.

(B) *Prorated fees.* License fees shall not be prorated unless otherwise specified by this chapter or by law.

(C) *Refunds.* License fees shall not be refunded in whole or in part unless otherwise specified by law.

(Prior Code, § 110.02)

**§ 110.03 DURATION OF LICENSE.**

Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31.

(Prior Code, § 110.03)

**§ 110.04 TRANSFERS.**

No license issued under this code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Council or other licensing authority.

(Prior Code, § 110.04)

**§ 110.05 INSPECTION.**

(A) *Authorized personnel.* Any city official or employee having a duty to perform with reference to a license under this chapter and any police officer may inspect and examine any licensee, the business, or premises to enforce compliance with applicable provisions of this code. Subject to the provisions of division (B) of this section, enforcement officers may, at any reasonable time, enter any licensed premises for which a license is required in order to enforce compliance with this chapter.

(B) *Search warrants.* If the licensee objects to the inspection of the premises, the city official or employee charged with the duty of enforcing the provisions of this chapter shall procure a valid search warrant before conducting the inspection.

(Prior Code, § 110.05)

**§ 110.06 DUTIES OF LICENSEE.**

(A) *Compliance required.* Every licensee and permittee shall have the duties set forth in this section.

(B) *Inspection.* Every licensee and permittee shall permit, at reasonable times, inspections of their business and examination of their books and records by authorized officers or employees.

(C) *Compliance with law.* Every licensee or permittee shall comply with laws, codes, and regulations applicable to the licensed business, activity, or property.

(D) *Display of license.* Every licensee or permittee shall display the license, permit, or other insignia given as evidence of the license or permit in a conspicuous place on the premises, vehicle, or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever the licensee is carrying on the licensed activity.

(E) *Unlawful disposition.* The license or license insignia shall not be given or lent to any other person by the licensee.

(Prior Code, § 110.06)

**§ 110.07 SUSPENSION OR REVOCATION.**

The Council may suspend for a period not exceeding 60 days or revoke any license or permit for violation of any provision of law, code, or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law

without notice and hearing, and except where suspension may be made without hearing, the holder of the license or permit shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

(Prior Code, § 110.07)

## PUBLIC DANCES

### § 110.20 REGULATION OF PUBLIC DANCES.

(A) *Regulation of public dances.* All public dances held in this city shall be conducted in accordance with the provisions of this section.

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

**PUBLIC DANCE.** Any dance where the general public may participate, whether or not a charge for admission for dancing is made.

**PUBLIC DANCING PLACE.** Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.

(C) *Permit.* No person shall conduct a public dance in this city unless a permit has been obtained from the City Administrator prior to the holding of the dance. The fees for a permit shall be as established by resolution of the Council as it may be amended from time to time. In addition to this fee, the applicant shall pay the cost to the city of providing a police officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of police officers required to be present at any dance. No permit shall be issued until the fee and the cost of providing for the police officer or officers has been paid.

(D) *Application.* Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the City Administrator submitted to the City Administrator at least ten days before the date of the proposed dance. The application shall set forth the name and address of the applicant who shall be the person responsible for conducting the public dance and any business, committee, or organization sponsoring the dance, the place where the dance is to be held, the date of the dance and the time of its beginning and end. Proof of all insurance required by this ordinance shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit application and no permit shall be issued until the fees for the use of the city building or other city property have also been paid.

(E) *Insurance.* All insurance policies required for the event, including any insurance required by law for the sale of alcoholic beverages, shall list the city as a named insured and provide a provision to defend, indemnify, and hold harmless the city and any of its employees from any claims arising from the event.

(F) *Location.* The applicant shall make sure that adequate parking is available for the persons wishing to attend the dance and make sure that the location is safe and accessible. This information shall also be provided to the City Administrator before a permit shall be issued.

(G) *Permit to be posted.* When a permit is issued, the holder of the permit shall post the permit in a prominent location on the premises on which the dance is to be held during the time the dance is occurring. The applicant shall be present at all times while the dance is occurring.

(H) *Liquor license required.* No person shall give, hold, conduct, or permit any public dance where liquor will be served, as defined in M.S. Chapter 340A, as it may be amended from time to time, without obtaining a license from the city.

(I) *Police officer presence.* No public dance shall occur without at least one police officer, or more if more are required under the criteria established by the City Council, present at the public dancing place during the duration of the dance and after the dance, until all of the participants have left the public dancing place.

(J) *Hours.* No public dance shall occur between the hours of 1:00 a.m. and 12:00 noon.

(K) *Minors denied admission.* No person under the age of 21 shall be allowed to be present by the permit holder or any police officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.

(L) *Certain behavior prohibited.* No person present at any public dance shall engage in any disorderly conduct as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person shall be immediately removed from the dance by the police officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the police officer present shall terminate the dance and remove all persons from the public dancing place.

(M) *Lighting.* In order to protect the safety of persons attending a public dance, public dancing places shall be adequately illuminated and dancing therein while lights are extinguished, dimmed, or turned low so as to give inadequate or imperfect illumination is hereby prohibited. All exit areas shall be illuminated at all times during the public dance with light having intensity of not less than one footcandle at floor level. Illumination of less than 0.5 footcandles in any area where dancing is occurring, permitted, or encouraged is prohibited.

(N) *Noise.* All public dances shall be subject to the provisions of this code regulating noise.

(Prior Code, § 110.20) Penalty, see § 110.99

## THEATERS AND ENTERTAINMENT ESTABLISHMENTS

### § 110.35 PERMIT REQUIRED

**§ 110.35 PERMIT REQUIRED.**

No person or entity shall operate a moving picture show or theater or show without a license therefor.

(Prior Code, § 110.35) (Ord. 198, passed 9-11-1995) Penalty, see § 110.99

**§ 110.36 APPLICATION FOR LICENSE AND TERM.**

(A) Application for such license shall specify the nature of the performances, the name of the owner, the location of the building, the number of exits, seating capacity of building, and nature of fire protection.

(B) The license shall be for a term of one year from the date the city approves the issuance of the license. The fee for such license shall be in an amount established by Council resolution.

(Prior Code, § 110.36) (Ord. 198, passed 9-11-1995)

**§ 110.37 NUMBER OF LICENSES.**

The number of licenses shall be limited and regulated by the number of inhabitants of the city, as determined by the last state or federal census thereof, so that there shall not be more than one license granted to every 5,000 inhabitants of the city, or fraction thereof.

(Prior Code, § 110.37) (Ord. 198, passed 9-11-1995)

**§ 110.38 FIRE PRECAUTIONS.**

The licensee shall cause all exits to be so constructed as to allow the doors of same to open outwards. All buildings in which licenses are granted shall be provided with fire extinguishers, and there shall be maintained over every exit a red incandescent light as well as a sign marked "Exit". All rooms in which moving picture machines are operated shall be so constructed of incombustible material as to render the same absolutely fireproof.

(Prior Code, § 110.38) (Ord. 198, passed 9-11-1995)

**§ 110.39 INDECENT SHOW PROHIBITED.**

(A) The licensees shall conduct, maintain, and operate their place of business and performances in an orderly manner and shall not allow the exhibition of any lewd, immoral, nude, strip bars, strip joints, or any indecent performances, acts, or moving pictures. No such actions or behavior shall be contrary to the community standards of decency of the city.

(B) No entertainment on a licensed premises shall contain:

(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals;

(3) The actual or simulated displaying of the pubic hair, anus, vulva, or genitals; or

(4) The performance of any nude or erotic dancing or display of nudity by either employees of the licensed premises or people under the direction of the licensee, people attending the licensed premises, or patrons or customers of the licensed premises.

(Prior Code, § 110.39) (Ord. 198, passed 9-11-1995; Ord. 219, passed 11-19-2001) Penalty, see § 110.99

**§ 110.99 PENALTY.**

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) Any permit holder violating any of the provisions of § 110.20 shall be guilty of a misdemeanor and their public dance permit is suspended immediately at the time of any arrest or citation for violating § 110.20.

(Prior Code, § 110.20)

(C) Licensees are responsible for the orderly and proper behavior of people in the licensee's establishment. Any licensee who allows any person to act in such a way as to violate §§ 110.35 to 110.39 shall be punished as misdemeanor crime and shall cause his or her license to be void. Furthermore, any person who engages in any action or behavior described in §§ 110.35 to 110.39 is guilty of a misdemeanor crime. Once a licensee has violated §§ 110.35 to 110.39 and continues to operate his or her establishment after the licensee has been voided, is guilty of a misdemeanor. Each act of violation constitutes a separate offense. For instance, each day a violation of §§ 110.35 to 110.39 occurs constitutes a separate offense.

(Prior Code, § 110.40)

(Ord. 198, passed 9-11-1995; Ord. 219, passed 11-19-2001)

## Section

- 111.01 Definitions
- 111.02 Exceptions to definitions
- 111.03 Licensing; exemptions
- 111.04 License ineligibility
- 111.05 License suspension and revocation
- 111.06 License transferability
- 111.07 Prohibited activities
- 111.08 Exclusion by placard

### § 111.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PEDDLER.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term **HAWKER**.

**PERSON.** Any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

**REGULAR BUSINESS DAY.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

**SOLICITOR.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term **CANVASSER**.

**TRANSIENT MERCHANT.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

(Prior Code, § 111.01)

### § 111.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms peddler, solicitor, and transient merchant shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(Prior Code, § 111.02)

### § 111.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Chapter 329, as it may be amended from time to time, or any license that the county may issue licensing peddlers and solicitors.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by

the City Council and available from the office of the City Administrator. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent;
- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;
- (13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;
- (15) Proof of any requested county license;
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- (17) A general description of the items to be sold or services to be provided;
- (18) All additional information deemed necessary by the City Council;
- (19) The applicant's driver's license number or other acceptable form of identification; and
- (20) The license plate number, registration information, and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in an ordinance establishing fees and charges, as it may be amended from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Administrator, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the required necessary information that is missing. If the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Administrator must issue the license unless there exist grounds for denying the license under § 111.04, in which case the Administrator must deny the license. If the City Administrator denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

- (1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
- (2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion, and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.
- (3) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

(Prior Code, § 111.03) Penalty, see § 10.99

#### **§ 111.04 LICENSE INELIGIBILITY.**

The following shall be grounds for denying a license under this chapter:

- (A) The failure of the applicant to obtain and show proof of having obtained any required county license;
- (B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;
- (C) The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;
- (D) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; and
- (E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

(Prior Code, § 111.04)

#### **§ 111.05 LICENSE SUSPENSION AND REVOCATION.**

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- (1) Fraud, misrepresentation, or incorrect statements on the application form;
- (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;
- (3) Conviction of any offense for which granting of a license could have been denied under § 111.04; and
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.* Upon receiving the notice provided in division (C) above, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Administrator within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(Prior Code, § 111.05) Penalty, see § 10.99

#### **§ 111.06 LICENSE TRANSFERABILITY.**

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

(Prior Code, § 111.06) Penalty, see § 10.99

#### **§ 111.07 PROHIBITED ACTIVITIES.**

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;

- (B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;
- (C) Conducting business in a way as to create a threat to the health, safety, and welfare of any individual or the general public;
- (D) Conducting business before 7:00 a.m. or after 9:00 p.m.;
- (E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;
- (F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; or
- (G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

(Prior Code, § 111.07) Penalty, see § 10.99

**§ 111.08 EXCLUSION BY PLACARD.**

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors, or Transient Merchants”, or “Peddlers, Solicitors, and Transient Merchants Prohibited”, or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

(Prior Code, § 111.08) Penalty, see § 10.99

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## **CHAPTER 112: ALCOHOLIC BEVERAGES**

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Section

*General Provisions*

- 112.01 Adoption of state law by reference
- 112.02 City may be more restrictive than state law
- 112.03 Definitions
- 112.04 Nudity on the premises of licensed establishments prohibited
- 112.05 Consumption in public places

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- 112.20 Number of licenses which may be issued
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- 112.23 License fees; pro rata
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- 112.30 Hearing and issuance
- 112.31 Restrictions on issuance
- 112.32 Conditions of license
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- 112.35 Restrictions on purchase and consumption

112.36 Suspension and revocation

112.99 Penalty

**Cross-reference:**

*General Offenses, see Ch. 130*

*Health and Safety; Nuisances, see Ch. 92*

## **GENERAL PROVISIONS**

### **§ 112.01 ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of M.S. Chapter 340A, as may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Chapter 340A, as may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(Prior Code, § 112.01)

### **§ 112.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Chapter 340A, as it may be amended from time to time.

(Prior Code, § 112.02)

### **§ 112.03 DEFINITIONS.**

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter.

**LIQUOR.** As used in this chapter, without modification by the words “intoxicating” or “3.2% malt”, includes both intoxicating liquor and 3.2% malt liquor.

**RESTAURANT.** An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a **RESTAURANT** as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment”, “medium establishment”, or “large establishment” as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a **RESTAURANT** for purposes of this chapter unless it meets the definitions of “small establishment”, “medium establishment”, or “large establishment”.

(Prior Code, § 112.03)

### **§ 112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or the imposition of a civil penalty under the provisions of § 112.99(B).

(Prior Code, § 112.04) Penalty, see § 112.99

### **§ 112.05 CONSUMPTION IN PUBLIC PLACES.**

No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted. Consumption of intoxicating liquor or 3.2% malt liquor is allowed in any of the city parks by a permit obtained from the city only.

(Prior Code, § 112.05) (Ord. 224, passed 9-8-2003) Penalty, see § 112.99

## LICENSING

### § 112.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council, in its sound discretion, may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Chapter 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

(Prior Code, § 112.20)

### § 112.21 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

(Prior Code, § 112.21)

### § 112.22 KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 112.20:

- (A) 3.2% malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks;
- (B) 3.2% malt liquor off-sale license;
- (C) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization;
- (D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 112.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time;
- (E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 112.23 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may, in its sound discretion, authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may, in its sound discretion, authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises;
- (F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 112.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 112.23, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3b, as it may be amended from time to time;
- (G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000;
- (H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year;
- (I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 112.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 112.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who

also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license;

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization; and

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 112.23 shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.414, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(Prior Code, § 112.22)

#### **§ 112.23 LICENSE FEES; PRO RATA.**

(A) No license or other fee established by the city shall exceed any limit established by M.S. Chapter 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time by Council resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

(Prior Code, § 112.23)

#### **§ 112.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.**

The Council, in its sound discretion, may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

(Prior Code, § 112.24)

#### **§ 112.25 APPLICATION FOR LICENSE.**

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

(Prior Code, § 112.25) Penalty, see § 112.99

#### **§ 112.26 DESCRIPTION OF PREMISES.**

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

(Prior Code, § 112.26)

#### **§ 112.27 APPLICATIONS FOR RENEWAL.**

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

(Prior Code, § 112.27)

#### **§ 112.28 TRANSFER OF LICENSE.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

(Prior Code, § 112.28) Penalty, see § 112.99

#### **§ 112.29 INVESTIGATION.**

*(A) Preliminary background and financial investigation.*

(1) On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation.

(2) The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant.

(3) The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

*(B) Comprehensive background and financial investigation.*

(1) If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation.

(2) The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied.

(3) The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(Prior Code, § 112.29)

#### **§ 112.30 HEARING AND ISSUANCE.**

(A) The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license.

(B) After the investigation and hearing, the Council shall, in its sound discretion, grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

(Prior Code, § 112.30)

#### **§ 112.31 RESTRICTIONS ON ISSUANCE.**

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

(Prior Code, § 112.31) Penalty, see § 112.99

#### **§ 112.32 CONDITIONS OF LICENSE.**

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(Prior Code, § 112.32) Penalty, see § 112.99

### **§ 112.33 HOURS AND DAYS OF SALE.**

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

(Prior Code, § 112.33) Penalty, see § 112.99

### **§ 112.34 MINORS ON PREMISES.**

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel, or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

(Prior Code, § 112.34) Penalty, see § 112.99

### **§ 112.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

(Prior Code, § 112.35) Penalty, see § 112.99

### **§ 112.36 SUSPENSION AND REVOCATION.**

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.69, as it may be amended from time to time. The Council may act as the hearing body under that Act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Chapter 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time.

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of § 112.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed;

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed;

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed; and

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Administrator, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 112.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

(Prior Code, § 112.36) Penalty, see § 112.99

#### **§ 112.99 PENALTY.**

(A) Any person violating the provisions of this chapter or M.S. Chapter 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time, is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Chapter 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.69, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (1) For the first violation within any three-year period: \$500;
- (2) For the second violation within any three-year period: \$1,000; and
- (3) For the third and subsequent violations within any three-year period: \$2,000.

(C) The term **VIOLATION** as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

(Prior Code, § 112.99)

## **CHAPTER 113: TATTOO AND BODY PIERCING ESTABLISHMENTS**

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### Section

- 113.01 Purpose
- 113.02 Definitions
- 113.03 Business license required
- 113.04 Personal service license
- 113.05 License fee
- 113.06 Investigation fee
- 113.07 Granting of license
- 113.08 Persons ineligible for license
- 113.09 Places ineligible for license
- 113.10 Conditions of license
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- 113.13 Conflict of provisions
  
- 113.99 Penalty

### § 113.01 PURPOSE.

The purpose of this chapter is to regulate the business of tattooing and/or body piercing in order to protect the general health, safety, and welfare of the community.

(A) The City Council finds that the experience of other cities indicates that there is a connection between tattooing/body piercing and hepatitis and other health problems.

(B) The City Council finds that stringent regulations governing tattooing and body piercing can minimize the hepatitis and disease risk, and therefore protect the general health, safety, and welfare of the community.

(C) It is not the intent to prohibit tattoo and/or body piercing establishments from having a reasonable opportunity to locate in the city.

(Ord. 236, passed 6-9-2008)

### § 113.02 DEFINITIONS.

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

**BODY PIERCING.** Penetrating or making a hole in or through the human body to place jewelry or objects of metal, plastic, wood, bone, or other foreign material on an area for cosmetic purposes.

**BRANDING.** The use of heat, cold, or any chemical compound to imprint permanent markings on human skin by any means other than tattooing.

**CLEAN.** The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

**GOOD REPAIR.** Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a sanitary, workable, and sound condition.

**ISSUING AUTHORITY.** The City Administrator.

**MINOR.** A person under the age of 18.

**OPERATOR.** Any person who performs or practices the art of tattooing and/or body piercing on another person in connection with the operation of a tattoo and/or body piercing establishment and receives compensation from the owner of the business or its patrons.

**OWNER.** Any individual, firm, company, corporation, or association that owns an establishment where tattooing and/or body piercing is performed.

**SCARIFICATION.** The cutting or tearing of human skin for the purpose of creating a permanent mark or design on the skin.

**TATTOO, TATTOOING.** The marking of the skin of a person by insertion of permanent colors by introducing them through puncture of the skin.

(Ord. 236, passed 6-9-2008)

### § 113.03 BUSINESS LICENSE REQUIRED.

(A) No person, partnership, or corporation shall operate any establishment where tattooing and/or body piercing is practiced, nor engage in the practice of tattooing and/or body piercing without being licensed under this chapter. Jewelry stores, beauty shops, and accessory stores that exclusively provide ear piercing services using piercing guns shall be exempt from this license agreement.

(B) The application for a tattooing and/or body piercing establishment business license shall be submitted on a form provide by the city and shall include:

- (1) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all those persons holding more than 5% of the issued and outstanding stock of the corporation;
- (2) The name, address, phone number, and birth date of the manager of such establishment, if different from the owners;
- (3) The address and legal description of the premises where the tattoo and/or body piercing establishment is to be located;
- (4) A statement detailing any conviction relating to tattooing and/or body piercing or the operation of a tattoo and/or body piercing establishment by the applicant or manager and whether or not the applicant or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five 5% of the issued and outstanding stock of the corporation and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities;
- (5) The activities and types of businesses to be conducted;
- (6) The hours of operation;
- (7) The provisions made to restrict access by minors;

(8) A building plan of the premises detailing all internal operations and activities;

(9) Whether the applicant has previously been denied a license of this type by any other government unit;

(10) The names, street addresses, and business addresses of three residents of Renville, Yellow Medicine, Chippewa, Kandiyohi, Meeker, McLeod, Redwood, Nicollet, or Sibley counties who are of good moral character and who are not related to the applicant and not holding any ownership in the premises or business, who may be referred to as to the applicant's character;

(11) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid; and

(12) All applications for a license under this chapter shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. Any falsification on a license application shall result in the denial of a license. All applications shall be referred to the issuing authority for verification and investigation of facts set forth in the application, including any necessary criminal background checks to assure compliance with this chapter. The application shall be issued or denied by the issuing authority in accordance with this chapter.

(Ord. 236, passed 6-9-2008)

#### **§ 113.04 PERSONAL SERVICE LICENSE.**

(A) No operator shall perform tattoo and/or body piercing services within the city without being licensed as provided in this section. Any person desiring a personal service license shall file a written application on a form provided by the city.

(B) The application shall include the following information:

(1) The business address and all telephone numbers where the service is to be practiced or based;

(2) The name, birth date, complete home address, and telephone number of the applicant;

(3) The tattoo and/or body piercing business history and experience, including, but not limited to, whether or not the applicant, in previously operating in this or another city or state under license or permit, has had such license or permit denied, revoked, or suspended and the reason therefor, and the business activities or occupations subsequent to such action of denial, suspension, or revocation;

(4) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted or arrested and the circumstances thereof; and

(5) All applications for a license under this chapter shall be signed and sworn to by the applicant. Any falsification on a license application shall result in the denial of a license.

(C) All applications for a license shall be referred to the issuing authority for verification and investigation of facts set forth in the application, including any necessary criminal background checks to assure compliance with this chapter. The application shall be issued or denied by the issuing authority in accordance with this chapter.

(Ord. 236, passed 6-9-2008)

#### **§ 113.05 LICENSE FEE.**

(A) The annual license fee is set by City Council resolution.

(B) Each application for a license shall be submitted to the City Administrator and payment made to the city. Each application for a license shall be accompanied by payment in full of the required license fee. Upon rejection of any application for a license, the applicant may be refunded a portion of the license fee in accordance with the fee resolution, except where rejection is for a willful misstatement in the license application.

(C) All licensing shall expire on the last day of December of each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when application is made, a license may be issued for the remainder of the year for a prorated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(D) Once a license has been granted, no part of the fee paid by any licensee shall be refunded, except that a prorated portion of the fee shall be refunded in the event of the complete closure of the business and cessation of business activities for any of the following reasons and upon application to the City Administrator within 30 days from the happenings of the event, provided that such event occurs more than 30 days before the expiration of the license:

(1) Destruction or damage of the licensed premises by fire or other catastrophe;

(2) The licensee's illness;

(3) The licensee's death; or

(4) A change in the legal status making it unlawful for licensed business to continue.

(E) Each application shall contain a provision on the application indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the City Administrator by the applicant or licensee. If said changes take place during the investigation, said data shall be provided to the Police Chief or the City Administrator in writing.

(Ord. 236, passed 6-9-2008)

**§ 113.06 INVESTIGATION FEE.**

(A) At the time of the original application for a license, the applicant shall deposit the investigation fee set by the City Council resolution.

(B) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this section, then the license shall be issued by the City Council within 30 days after the investigation is completed. Otherwise, the license shall be denied.

(C) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premises without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. Any tattoo and/or body piercing establishment existing at the adoption of this chapter shall be required to obtain an annual license.

(D) If the license is denied, the applicant may request a hearing before the City Council by filing a written request therefor with the City Administrator within 15 days after the applicant has received written notice of denial.

(1) If the license application is denied by the City Council after a hearing, the applicant may appeal the decision to the appropriate court of competent jurisdiction.

(2) If a tattoo and/or body piercing establishment is lawfully in existence at the time of the adoption of this chapter the tattoo and/or body piercing establishment may continue in business until the court action is completed. Otherwise, the applicant may not commence doing business until the judicial action has been finally resolved.

(Ord. 236, passed 6-9-2008)

**§ 113.07 GRANTING OF LICENSE.**

The issuing authority shall complete his or her investigation within 30 days after the City Administrator received a complete application and all license and investigation fees.

(Ord. 236, passed 6-9-2008)

**§ 113.08 PERSONS INELIGIBLE FOR LICENSE.**

No license under this chapter shall be issued to an applicant who is a natural person; general or managing partner of a partnership; or manager, proprietor, or agent of a corporation or other organization if such applicant:

(A) Is a minor at the time the application is filed;

(B) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2 and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed by M.S. § 364.03, Subd. 3;

(C) Who is overdue or whose spouse is overdue in his or her payment of city, county, or state taxes, fees, fines, or penalties assessed against them or imposed upon them;

(D) Who has been denied a license by the city or any other Minnesota municipal corporation to operate a tattoo and/or body piercing establishment or whose license has been suspended or revoked within the proceeding 12 months, or who is residing with any such person;

(E) Who has not paid the license and investigation fees required by this chapter; or

(F) Is not of good moral character or repute.

(Ord. 236, passed 6-9-2008)

**§ 113.09 PLACES INELIGIBLE FOR LICENSE.**

(A) No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 to 278.03, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.

(B) No license shall be granted or renewed if the property does not comply with the city zoning ordinance 151 or does not qualify as a legal nonconforming use for tattooing and/or body piercing establishments.

(C) Premises licensed for alcoholic beverages. No license shall be granted or renewed if the premises is licensed for the furnishing of alcoholic beverages or is an adult establishment pursuant to ordinance 112.

(D) No license shall be granted if the premises is within 300 feet of a church, school, day care center, hospital, on-sale liquor establishment, halfway house, currency exchange operation, theatre, residence, pawnshop, secondhand goods dealer, or massage parlor.

(Ord. 236, passed 6-9-2008)

### **§ 113.10 CONDITIONS OF LICENSE.**

Every license shall be granted subject to the following conditions and all other provisions of this chapter and of any applicable sections of the city code, the city zoning ordinances, the Building Code, the Fire Code, and the city's and state's health ordinance.

(A) No person shall tattoo or pierce any person under the age of 18 except in the presence of, and with the written permission of, the parent or legal guardian of such minor. The consent must include both the custodial and non-custodial parents, where applicable. Any person licensed under this chapter shall conspicuously post a sign in the establishment that a person under the age of 18 is prohibited without the presence of and written permission of the parent or legal guardian. Appropriate identification of the parent or guardian and minor shall be provided.

(B) The license granted under this chapter is for the owner and the premises or operator named on the approved license application. No transfer of a license shall be permitted from place-to-place or from person-to-person without first complying with the requirements of an original application, except in the case in which an existing non-corporate license is incorporated and incorporation does not affect the ownership, control, and interest of the existing licensed establishment.

(C) All licensed premises shall have the license posted in a conspicuous place at all times.

(D) A license under this chapter shall not open for business for tattooing and/or body piercing before 7:00 a.m. or after 10:00 p.m.

(E) The tattoo and/or body piercing establishment license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the issuing authority. No person shall engage in the practice of tattooing and/or body piercing at any place other than the place or location named or described in the application and license. A separate room shall be required for body piercing and tattooing services. The applicant shall submit a drawing to scale of the tattooing and/or body piercing facilities.

(F) No person shall solicit business or offer to perform tattooing and/or body piercing services while under license suspension or revocation by the city.

(G) The licensee shall be responsible for the conduct of the business being operated and shall at all times maintain conditions of order.

(H) The licensee shall provide to the issuing authority a list of operators who perform tattooing and/or body piercing at the licensed establishment and shall verify that each operator has received a copy of Health and Safety Requirements and Sanctions for License Violations as appear in this chapter.

(I) All licensees shall have at all times a valid certificate of insurance issued by an insurance company licensed to do business in the State of Minnesota indicating that the licenses is currently covered in the tattoo and/or body piercing business by a liability insurance policy.

(1) The minimum limits of coverage for such insurance shall be:

- (a) Each claim, at least \$200,000; and
- (b) Each group of claims, at least \$500,000.

(2) Such insurance shall be kept in force during the term of the license and shall provide for notification to the city prior to termination or cancellation. A certificate of insurance shall be filed with the city.

(J) Inspection regulations include the following.

(1) *City initiated.* The issuing authority or designated health professionals shall, at a minimum, conduct one randomly scheduled inspection of each licensed facility each year to determine compliance with city requirements.

(2) *Compliance certification.* A health professional who is retained by the licensed operator acceptable to the issuing authority shall inspect the licensed premises in the month of November of each calendar year. Said inspection is to determine compliance with city requirements and a written report documenting findings shall be submitted to the issuing authority within 15 days from the date on which the inspection took place.

(K) Branding and scarification are prohibited in the city.

(Ord. 236, passed 6-9-2008)

### **§ 113.11 HEALTH AND SANITATION REQUIREMENTS.**

No person shall engage in the practice of tattooing and/or body piercing at any place in the city without complying with the following regulations.

(A) Every place where tattooing and/or body piercing is practiced shall be equipped with an adequate and conveniently located toilet room and hand lavatory for the accommodation of employees and patrons. The hand lavatory shall be supplied with hot and cold running water, under pressure; shall be maintained in good repair at all times; and shall be kept in a clean and sanitary condition. Toilet fixtures and seats shall be of a sanitary open front design and readily cleanable. Easily cleanable, covered receptacles shall be provided for waste materials. Every lavatory facility shall be provided with an adequate supply of hand cleansing compound and single service sanitary towels and hand drying devices.

(B) No person having any communicable blood or skin infection or other communicable diseases of the blood or skin shall practice tattooing and/or body piercing or shall be tattooed or body pierced.

(C) All disposable needles, needle bars, tubes, pigment receptacles, stencils outline or marking pens, piercing gun parts in contact with skin, razor blades, sharps, or other equipment utilized for penetrating the skin shall be individually prepackaged and pre-sterilized and stored in a self-sealing sterilizing pouch. No such equipment shall be used for more than one customer. Tools and supplies must be stored in a dust-free container. All bio-hazardous waste shall be disposed of in accordance with law, and disposal procedures shall be approved by the issuing authority. Sterilizing solutions and methods may be used for the purpose of sterilizing instruments other than needles, razor blades, sharps, or other equipment, utilized for penetrating the skin when such sterilizing solutions and methods are approved by the issuing authority.

(D) The following procedures shall be used for skin preparation.

(1) Each operator shall wash his or her hands thoroughly with soap and water and then dry them with a clean towel before and after each tattoo or body piercing. Operators with skin infections of the hand shall not perform a tattooing or body piercing services. The use of sterile surgical gloves is mandatory for all procedures performed under the licensure of this chapter. All jewelry, forceps, piercing equipment, and tattooing equipment not described in division (C) above, that this part of an invasive procedure shall be sterilized in a steam pressure autoclave for at least 15 minutes at a minimum of 250°F (121°C) and at a minimum of 15 pounds of chamber pressure, or a minimum of 240°F (115°C) and at a minimum of ten pounds of chamber pressure before use on a customer, and after their use shall be again so sterilized.

(2) Whenever it is necessary possible to shave the skin, pre-packaged, pre-sterilized, disposable razor blades shall be used. A new disposable razor blade must be used for each customer.

(3) The skin area to be tattooed or pierced shall be thoroughly cleaned with germicidal soap, rinsed thoroughly with water, and sterilized with an antiseptic solution approved by the issuing authority. After tattooing and/or body piercing, a sterile dressing shall be applied to the affected area.

(4) All bandages and surgical dressings used in connection with the tattooing and/or body piercing of any person shall be individually pre-packaged, pre-sterilized, and disposable. Every operation shall provide single service towels or wipes for each customer and such towels or wipes shall be stored and disposed of in a manner of in a bio-hazard container and picked up by a certified bio-hazard waste company or contracted with the local hospital for incineration.

(E) All tables, chairs, furniture, or area on which a patron receives a tattoo or body piercing shall be covered by single service disposable paper or clean linens, or in the alternative, the table, chair, or furniture on which the patron receives a tattoo and/or body piercing shall be impervious to moisture and shall be properly sanitized after each tattoo or body piercing. Tables and counter tops shall be industrial grade Formica or similar material. Drop cloths made of two-ply paper and plastic shall be available for use as needed.

(F) Every operator shall provide single service towels or wipes for each customer or person and such towels and wipes shall be stored and disposed of in a manner acceptable to the issuing authority.

(G) Every operator shall wear clean, washable garments and protective latex disposable gloves when engaged in the practice of tattooing and/or body piercing. If garments are contaminated with blood or body fluids, such garments shall be removed and changed and cleaned or disposed of in a manner acceptable to the issuing authority.

(H) Pigments used in tattooing shall be pre-made and commercially prepared and free from bacteria and noxious agents and substances including mercury. The pigments used from stock solutions for each customer shall be placed in a single service receptacle and such receptacle and remaining solution shall be discarded after use on each customer in accordance with procedures approved by the issuing authority.

(I) All bandages and surgical dressings used in connection with the tattooing and body piercing of any person shall be sterile.

(J) Jewelry for the other parts of the body shall be made of implant grade, high quality stainless steel (300 series), solid 14K and 18K gold niobium, titanium, platinum, or a dense low porosity plastic such as monofilament nylon, acrylic, or Lucite. Ear studs or other jewelry designed for earlobe piercing are not appropriate jewelry for other body parts. Jewelry shall have no nicks, scratches, or irregular surfaces which might endanger the tissues. Jewelry shall be pre-sterilized and in a sealed package.

(K) There shall not be less than 150 square feet of floor space at the place where the practice of tattooing and/or body piercing is conducted, and said place shall be so lighted and ventilated as to comply with the standard approved by the issuing authority.

(L) No person shall practice tattooing and/or body piercing while under the influence of alcoholic beverages or illicit drugs. No customer shall be tattooed and/or body pierced while under the influence of alcoholic beverages or illicit drugs.

(M) The operator shall provide the person tattooed and/or body pierced with printed instructions on the approved care of the tattoo and/or body piercing during the healing process.

(N) No smoking shall be allowed in the establishment.

(O) No place licensed as a tattoo and/or body piercing establishment shall be used or occupied as living or sleeping quarters.

(P) No animals or pets shall be allowed in the establishment with the exception of guide dogs or animals to aid handicapped patrons.

(Q) All personnel performing these procedures are strongly urged to obtain an immunization for Hepatitis B.

(Ord. 236, passed 6-9-2008)

## § 113.12 HINDRANCE.

Any person hindering the efforts of city officials to investigate possible violations of this chapter shall be guilty of a misdemeanor.

(Ord. 236, passed 6-9-2008)

## § 113.13 CONFLICT OF PROVISIONS.

In any case where a provision of this chapter is found to be in conflict with the provision of any zoning, building, fire, safety, or health ordinance or code in the city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the city existing on the effective date of this chapter which established a lower standard for the promotion and protection of the health and safety of the property, the provision of this chapter shall be deemed to prevail. The determination of the applicability of this chapter in light of the above rules of interpretation shall be made by the city and its determination shall be final.

(Ord. 236, passed 6-9-2008)

## § 113.99 PENALTY.

(A) Any persons violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by law.

(B) The City Council may, upon ten days' written notice to the operator and following a public hearing, revoke the license or suspend the license if the licensee submitted false information or omitted material information in the license process required by this chapter. The City Council may also revoke the license or suspend the license for a violation of:

(1) Any provision of this chapter or any other local law governing the same activity during the license period; and

(2) Any criminal law during the license period which adversely affects the ability to honestly, safely, or lawfully conduct a tattooing and/or body piercing business.

(Ord. 236, passed 6-9-2008)

# TITLE XIII: GENERAL OFFENSES

Chapter

## 130. GENERAL OFFENSES

### CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Use of weapons
- 130.02 Use of city swimming pool restricted
- 130.03 Use of public parks regulated
- 130.04 Resisting a police officer or a public officer
- 130.05 Curfew
  
- 130.99 Penalty

#### ***Cross-reference:***

*Health and Safety; Nuisances, see Ch. 92*

## § 130.01 USE OF WEAPONS.

(A) *Restrictions.* No person except a police officer in the performance of duty shall, within the city, discharge any gun, pistol, or firearm of any description or carry any such weapon unless it is dismounted or broken apart or carried in a case in such a manner that it cannot be discharged. This division does not prevent the carrying of a handgun within the city under a permit subject to the restrictions imposed by law.

(B) *Air rifles, sling shots.* No person shall use or discharge any air rifle or sling shot within the city.

(C) *Offense by parents, guardians.* It is unlawful for any parent or guardian of any person under the age of 14 years knowingly to permit such person to violate any provisions of this section.

(Prior Code, § 130.01) Penalty, see § 130.99

### **§ 130.02 USE OF CITY SWIMMING POOL RESTRICTED.**

It shall be unlawful for any person to enter in or upon the area of the Hector Municipal Swimming Pool, which is enclosed by a fence or other structure, after the area has been closed to usage to the public or while there is no lifeguard, water safety instructor, or other authorized supervisor present at the area.

(Prior Code, § 130.02) Penalty, see § 130.99

### **§ 130.03 USE OF PUBLIC PARKS REGULATED.**

No person or persons shall enter or remain in any public park in the city between the hours of 11:30 p.m. and 8:00 a.m.

(Prior Code, § 130.03) Penalty, see § 130.99

### **§ 130.04 RESISTING A POLICE OFFICER OR A PUBLIC OFFICER.**

Every person who, in the city, shall willfully resist, delay, or obstruct a police officer or a public officer in discharging or attempting to discharge a duty of his or her respective office shall be guilty of a misdemeanor.

(Prior Code, § 130.04) Penalty, see § 130.99

### **§ 130.05 CURFEW.**

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

#### ***CURFEW HOURS.***

- (a) From 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (b) From 12:30 a.m. until 6:00 a.m. on any Saturday or Sunday.

***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

***ESTABLISHMENT.*** Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

#### ***GUARDIAN.***

- (a) A person who, under the court order, is the guardian of the person of a minor; or
- (b) A public or private agency with whom a minor has been placed by a court.

***MINOR.*** Any person under the age of 17 years of age.

***OPERATOR.*** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of the corporation.

***PARENT.*** A person who is:

- (a) A natural parent, adoptive parent, or step-parent of another person; or
- (b) At least 18 years of age and authorized by the parent or guardian to have the care and custody of a minor child.

***PUBLIC PLACE.*** Any place which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

#### ***REMAIN.***

- (a) To linger or stay; or
- (b) To fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

***SERIOUS BODILY INJURY.*** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function or any bodily member or organ.

(B) *Restrictions.*

(1) It shall be unlawful for any minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(2) It shall be unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours. The term ***KNOWINGLY*** includes knowledge which the parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

(3) It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during the curfew hours.

(C) *Exceptions.*

(1) The following shall constitute valid exceptions to the operation of the curfew, that the minor was:

- (a) Accompanied by the minor's parent or guardian;
- (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (c) In a motor vehicle involved in interstate travel;
- (d) Engaged in an employment activity, or going to or returning home from employment activity, without any detour or stop;
- (e) Involved in an emergency;

(f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(i) Married or has been married.

(2) It is a defense to the prosecution under division (B) that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during the curfew hours and refused to leave.

(D) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in division (C) is present.

(Prior Code, § 130.05) (Ord. 216, passed 6-13-2000) Penalty, see § 130.99

## § 130.99 PENALTY.

(A) *Generally.* Whoever violated any provision of this chapter for which no other penalty has been established shall be punished as provided in § 10.99.

(B) *Weapon regulations penalty.* Any person who violates § 130.01 shall be guilty of a misdemeanor.

(Prior Code, § 130.01)

(C) *Swimming pool regulations penalty.* Any person guilty of a violation of § 130.02 shall be guilty of a petty misdemeanor.

(Prior Code, § 130.02)

(D) *Park regulations penalty.* Any person entering or remaining in a public park between the hours of 11:30 p.m. and 8:00 a.m., after being requested or ordered to leave by a law enforcement officer, in violation of § 130.03, shall be guilty of a misdemeanor.

(Prior Code, § 130.03)

(E) *Curfew penalties.*

(1) A person who violates a provision of § 130.05 is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

(2) Any minor who is convicted of a violation of § 130.05 after the case has been referred for prosecution in the trial court under M.S. § 260.125, as it may be amended from time to time, and any adult person having the care and custody of such minor is guilty of a petty misdemeanor and shall be punished by a fine not to exceed \$200.

(Prior Code, § 130.99)

(Ord. 216, passed 6-13-2000)

## TITLE XV: LAND USAGE

### Chapter

### 150. BUILDING REGULATIONS

## CHAPTER 150: BUILDING REGULATIONS

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Section

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- 150.30 Purpose
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### GENERAL PROVISIONS

#### § 150.01 MINNESOTA STATE BUILDING CODE ADOPTED.

(A) *Codes adopted by reference.* The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 326B.101 to 326B.194, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the state's Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration, and enforcement.*

(1) The application, administration, and enforcement of the code shall be in accordance with the State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.121, Subd. 2, when so established by this section.

(2) The code enforcement agency of this municipality is called the City of Hector.

(3) This code shall be enforced by the state's Certified Building Official designated by the city to administer the code.

(M.S. § 326B.133, Subd. 1)

(C) *Permits and fees.*

(1) The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.62, Subd. 2.

(2) Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the city in § 150.03. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 326B.148.

(D) *Violations and penalties.* A violation of the code is a misdemeanor.

(E) *Building Code optional chapters.* The State Building Code, established pursuant to M.S. §§ 326B.101 to 326B.194, allows the city to adopt by reference and enforce certain optional chapters of the most current edition of the State Building Code.

(Prior Code, § 150.01) (Ord. 227, passed 5-9-2005)

#### § 150.02 UNLICENSED CONTRACTORS.

A building permit shall not be issued to any person who is required to be a licensed residential contractor under the provisions of M.S. § 326B.84, as it may be amended from time to time, unless the person has a license. The Building Official or other person issuing a building permit shall report any unlicensed person applying for the permit to the state's Commissioner of Commerce.

(Prior Code, § 150.02)

### **§ 150.03 PERMIT FEE SCHEDULE ADOPTED.**

(A) *Assignment of fees.* Permit fees shall be assessed for work governed by the State Building Code. Those fees, assigned by the city, can be found in the attached appendixes:

- (1) Appendix 1: Explanation of Valuation Amounts;
- (2) Appendix 2: Residential Building Permit Fees; and
- (3) Appendix 3: Commercial Building Permit Fees.

(B) *Adjusting of fees.* In accordance with the collection of fees, the forcing agency during the inspections may adjust fees to cover inflation, mandates by the state, and other factors not expressed in this section without the requirement of repeated ordinances. Future establishment of fees may be done by city resolution.

(Prior Code, § 150.03) (Ord. 228, passed 5-9-2005; Ord. 228(A), passed 10-28-2008)

## **NUMBERING OF HOUSES AND BUILDINGS**

### **§ 150.15 DUTIES OF OWNER.**

It shall be the duty of the owner, agent, lessor, or occupant of every house or other building, except barns, garages, and other buildings which are part of the same property with a numbered house or building, to place on every such building its property street number so that the same shall be clearly visible from the sidewalk. Numbers shall be placed on such houses and buildings within 30 days from the time the owner, agents, lessors, or occupants are notified either by mail, publication, or telephone of the assignment of numbers to the houses as provided in this subchapter.

(Prior Code, § 150.15)

### **§ 150.16 ASSIGNMENT OF NUMBERS.**

Numbers shall be assigned to houses and buildings from Main Street and Ash Avenue as bases, and in the following manner.

(A) All houses and buildings situated within the first block north of Ash Avenue on all intersecting streets shall be given numbers between 101 and 199 inclusive; within the second block numbers between 200 and 299 inclusive shall be used, and so on in each succeeding block; and all numbers shall be indicated by adding the word "North" to the name of the street.

(B) In like manner, the numbers between 101 and 199 inclusive shall be used in the first block south of Ash Avenue on intersecting streets, and each succeeding hundred in each succeeding block, with the addition of "East" or "West" to the avenue name as the case may be.

(C) Starting from the base streets of Main Street and Ash Avenue, odd numbers shall be on the left and even numbers shall be on the right; that is to say, going north from the base street, Ash Avenue, even numbers shall be on the east, odd number shall be on the west; going south from the base street, Ash Avenue, even numbers shall be on the west, odd numbers shall be on the east; going west from the base street, Main Street, even numbers shall be on the north, odd numbers shall be on the south; going east from the base street, Main Street, even numbers shall be on the south and odd numbers shall be on the north.

(D) Within any block, the houses or buildings nearer the base street shall use the smaller numbers. In assigning numbers to houses and buildings between which one or more 25 foot lots be unimproved, sufficient numbers shall be allowed for later assignments to such vacant lots.

(Prior Code, § 150.16)

### **§ 150.17 SIZE OF NUMBERS.**

All numbers and all letters as may be used in this subchapter shall be made of plainly visible material and in a size not less than three and five-eighths inches in height. The numbers or letters shall be reflectorized material or mounted on contrasting colored background.

(Prior Code, § 150.17)

### **§ 150.18 DUTIES OF STREET COMMISSIONER.**

It shall be the duty of the Street Commissioner to assign numbers as herein before provided to every house or other building in the city and to report the numbers assigned to the next regular meeting of the Council. The Council shall at once consider such report and accept and by resolution approve the same with such revisions and amendments as it may deem necessary. A copy of the report as approved shall be filed with the resolution in the proceedings of the Council; a copy of the report and resolution, properly certified, shall be attached to the plat of the city in the office of the County Register of Deeds and to the plat of the city in the office of the City Administrator; and the numbers assigned may be entered upon appropriate blocks and lots indicated on the plats. It shall be the duty of the City Administrator at once to notify the owners, agents, lessors, or occupants of such houses or buildings, either by mail, publication, or telephone, of the numbers so assigned.

(Prior Code, § 150.18)

### **§ 150.19 REPORT OF ADMINISTRATOR.**

Whenever any house or other building is to be erected hereafter, a number shall be assigned at the time the building permit is granted therefor. On or before January 31 of each year hereafter, it shall be the duty of the City Administrator to prepare certificates stating the new numbers assigned during the preceding calendar year and send one to the County Register of Deeds for attaching to the plat of the city as aforesaid, and to attach another to the plat in the office of the City Administrator. The numbers may be approximately entered upon the plats.

(Prior Code, § 150.19)

## BILLBOARDS

### § 150.30 PURPOSE.

It is the purpose of the city to prevent, reduce, or eliminate any interference with airport traffic. The city believes that the prohibiting of the placing or using of property for billboards and other similar advertising is necessary to protect the public health and safety.

(Prior Code, § 150.35) (Ord. 189, passed 7-12-1994)

### § 150.31 PROHIBITION.

(A) It shall be unlawful for anyone to place or construct a billboard or similar structures on either side of State Highway 4, south of U.S. Highway 212, without first obtaining the approval of the City Council.

(B) It shall be unlawful for anyone to place or construct a billboard or other similar structures on any city owned airport property.

(Prior Code, § 150.36) (Ord. 189, passed 7-12-1994) Penalty, see § 10.99

### § 150.99 PENALTY.

(A) Any person violating any provisions of this chapter for which no other penalty is provided shall be subject to the provisions of § 10.99.

(B) Whoever shall fail to comply with the provisions of §§ 150.15 to 150.19 or whoever shall affix to or display upon any house or building any such numbers other than those assigned to it shall be guilty of a misdemeanor and, upon conviction therefor, shall be fined as determined by § 10.99. Each and every day thereafter constitutes a separate and distinct violation of this subchapter.

(Prior Code, § 150.20)

(C) Violations of §§ 150.30 and 150.31 shall constitute a misdemeanor and shall be punishable by a fine determined by § 10.99.

(Prior Code, § 150.37)

(Ord. 189, passed 7-12-1994)

## CHAPTER 151: ZONING REGULATIONS

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Section

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Appendix A: Land affected by municipal airport zoning

**GENERAL REGULATIONS**

**§ 151.001 INTENT AND PURPOSE.**

The intent and purpose of this chapter shall be:

- (A) To regulate and limit the height and bulk of buildings hereafter to be erected;
- (B) To establish, regulate, and limit the building or setback lines on or along any street, traffic-way, drive, or parkway;
- (C) To regulate and limit the intensity of use of lot areas and to regulate and determine the area of open spaces within and surrounding buildings hereafter to be erected;
- (D) To classify, regulate, and restrict the location of trades and industries and the location of buildings designed for specified industries and the location of buildings designed for specified industrial, business, residential, and other uses;
- (E) To divide the entire municipality into districts of such number, shape, and area, and of such different classes according to use of land and buildings, height and bulk of buildings, intensity of use of lot areas, area of open spaces, and other classifications, as may be deemed best suited to regulate development;
- (F) To fix standards to which buildings or structures therein shall conform;
- (G) To prohibit uses, buildings, or structures incompatible with the character of established districts;

(H) To prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed;

(I) To classify, regulate, and restrict the use of property on the basis of land use relationship;

(J) To provide for variations from such regulations, standards, restrictions, and limitations;

(K) To provide for conditional uses, including planned development, within the established districts;

(L) To provide administrative bodies and procedures as shall be necessary to the implementation and enforcement of the various provisions of this chapter;

(M) To provide for the orderly amendment of this chapter; and

(N) To provide regulations pertaining to pre-existing lots, structures, and uses which do not conform to the regulations, standards, restrictions, and limitations established by this chapter.

(Prior Code, § 151.001) (Ord. 149, passed 3-9-1998)

#### **§ 151.002 INTERPRETATION.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, and general welfare of the city. Where the provisions of this chapter impose greater restriction than those of any statute, other ordinance, or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance, or regulations shall be controlling.

(Prior Code, § 151.002) (Ord. 149, passed 3-9-1998)

#### **§ 151.003 COMPLIANCE.**

(A) All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alteration or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations of this chapter which are applicable to the zoning district in which such buildings, uses, or land shall be located.

(B) However, where a zoning permit for a building or structure has been issued in accordance with law prior to the effective date of this chapter, which has not by its terms expired prior to such effective date and provided that construction is begun before the permit's expiration and within one year of its effective date and diligently pursued to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the zoning permit was issued, subject thereafter to the provisions of this chapter relating to non-conformities.

(Prior Code, § 151.003) (Ord. 149, passed 3-9-1998)

#### **§ 151.004 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When used in this chapter, the following terms shall be deemed to have the meanings herein ascribed to them in addition to the definitions given in the Uniform Building and Fire Codes.

**ACCESSORY BUILDING.** A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

**ACCESSORY USE.** A use or structure subordinate to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the use of the main building.

**ALLEY.** A public or private thoroughfare which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

**APARTMENT.** A room or suite of rooms in a multi-use building arranged and intended as a place of residence for a single family or a group of individuals living together as a single housekeeping unit.

**APARTMENT BUILDING.** Any building or portion thereof which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and shall include flats or apartments.

**ARTERIAL STREET, MINOR.** County State Aid highways and major local streets.

**ARTERIAL STREET, PRINCIPAL.** State Highway 4 and U.S. Highway 212.

**AUTOMOBILE OR TRAILER SALES LOT.** An open area other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

**AUTOMOBILE SERVICE STATION.** Any building or premises, or portion thereof, used or intended to be used for the retail dispensing or sale of automobile fuels, which activity may be accompanied by accessory uses such as sale of lubricants, tires, accessories or supplies, or minor repairing of automobiles.

**AUTOMOBILE WASH (CAR WASH).** Any building or premises, or portion thereof, the use of which is devoted to the business of

washing automobiles for a fee, whether by automated cleaning devices or otherwise.

**AUTOMOBILE WRECKING, SALVAGE YARD.** The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.

**BASEMENT.** Any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**BED-AND-BREAKFAST ESTABLISHMENT.** A structure designed and used as a residence in which one or more bedrooms are rented to transient guests on a day-to-day basis and in which meals are served to these overnight guests.

**BOARDING HOUSE.** A dwelling where meals or lodging, or both, are provided for compensation to three or more persons, who are not transients, by pre-arrangement for definite periods, in contradiction to hotels and motels as herein defined.

**BUFFER.** The use of land, topography (differences in elevation), space, fences, or landscape plantings to screen or partially screen a tract of property from another tract or property and thus reduce undesirable influences such as sight, noise, dust, and other external effects which a land use may have upon other adjacent or nearby land uses.

**BUILDING.** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property. When a structure is completely divided into parts by an unpierced wall or walls extending from the ground to the top of such structure, each such part shall be deemed a separate **BUILDING**.

**BUILDING LINE.** An imaginary line on a development site corresponding with the series of points where an exterior building wall meets the grade of the earth.

**BUSINESS.** Any occupation, employment, or enterprise wherein merchandise is exhibited or sold or rented, or which occupies time, attention, labor, or materials, or where services are offered for compensation.

**CELLAR.** A portion of a building located partly or wholly underground and having half or more than half its clear floor to ceiling height below grade.

**CLINIC.** An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one or more of a group of physicians or dentists, or both, practicing together.

**COMPREHENSIVE PLAN.** Unless otherwise stated, it is the general plan for land use, transportation, and community facilities prepared and maintained by the city.

**CONDITIONAL USE.** A use of land not normally allowed in a particular zoning district but which may be allowed under certain conditions.

**CORNER LOT.** A lot situated at the junction of and fronting on two or more streets.

**DAY CARE CENTER.** A business in which not more than ten children receive adult supervision and meals in the temporary daily absence of their parents. A similar business with fewer than ten children is considered a home occupation.

**DOG KENNEL.** Any place where four or more dogs over six months of age are owned, kept, boarded, bred, and/or offered for sale.

**DRIVEWAY.** A minor private way used by vehicles and pedestrians on an individual lot or parcel of land.

**DWELLING, ATTACHED.** A dwelling which is joined to another dwelling.

**DWELLING, CLUSTER OR GROUP.** A group of two or more detached dwellings located on a parcel of land and having any yard or court in common.

**DWELLING, DETACHED.** A dwelling, including its attached garage, if any, which is entirely surrounded by open space on the same lot.

**DWELLING, MULTIPLE-FAMILY.** A building designed for or occupied by more than two families.

**DWELLING, SINGLE-FAMILY.** A detached building designed for and occupied by not more than one family.

**DWELLING, TWO-FAMILY.** A building designed for and occupied by two families.

**DWELLING UNIT.** A residential accommodation including complete kitchen facilities permanently installed which are arranged, designed, used, or intended for use as living quarters for one household and not more than one roomer or boarder. Where a private garage is structurally attached, it shall be considered as part of the building in which the **DWELLING UNIT** is located.

**EARTH SHELTER.** Constructed so that more than 50% of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the State Building Code standards are satisfied. Partially completed buildings shall not be considered **EARTH SHELTERED**.

**EASEMENT.** A right held by others to use one's land for a specified purpose or purposes.

**ESSENTIAL SERVICES.** Overhead or underground electrical, telephone, gas, steam, or water transmission or distribution systems and structures, or collection, communication, supply, or disposal systems and structures, operated by utilities.

**FAMILY.** One or more persons related by blood, marriage, or adoption, or state licensed family, or not more than five persons, including owner occupant, not so related, occupying a dwelling and living as a single housekeeping unit, as distinguished from a group

occupying a boarding house, private club, or hotel as herein defined.

**FAMILY DAY CARE HOME.** A single-family home, duplex, or apartment unit providing day care for no more than ten children including the day care operator's children under five years of age.

**FLOOR AREA.** The floor area of a building is the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls, or from the centerline of a wall separating two buildings. The **FLOOR AREA** of a building shall include basement floor area, but shall not include cellar floor area.

**FLOOR AREA RATIO (FAR).** The floor area ratio of the building or buildings on any lot or site area is the gross floor area of the building or buildings on that lot or site divided by the area of such lot. When used in this chapter, the **FLOOR AREA RATIO** multiplied by the lot or site area in questions produces the maximum amount of floor that may be constructed on such lot or site area.

**FOSTER FAMILY HOME.** A family home where children out of their own homes are cared for 24 hours a day for a period of 30 days or more.

**FRONTAGE.** All the property fronting on one side of a street, measured along such street, between an intersecting street and another intersecting street, a right-of-way, waterway, end of a dead-end street, or municipal boundary.

**GARAGE.** An accessory building, or part of a principal building, used primarily for the parking of automobiles owned or operated by the residents of dwellings located on the lot on which it is located. **GARAGES** are accessed by dust-free driveways.

**GRADE.**

(1) For buildings more than five feet from any street line, the average level of the finished surface adjacent to the exterior walls of the building.

(2) For buildings having one or more exterior walls within five feet of a street line or lines, the average of the elevations of the sidewalk or sidewalks, or their equivalent established ground surface, adjacent to such street line or lines.

**GREEN SPACE.** Those portions of a site landscaped with ground cover such as grass and, possibly, trees and/or shrubs.

**GROUP HOME.** A specialized residential facility that provides care on a 24-hour basis for a selected group and providing specialized care and a planned treatment program under the direction and control of an agency, institution, or independent operator. Children of the group home parents under the age of 21 years of age present in the home are included in the total number of children permitted to live in the home.

**HALF STORY.** The portion of a building under a sloping gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story. No such **HALF STORY** shall be used for occupancy except in conjunction with and by the occupants of the floor immediately below it.

**HEIGHT OF BUILDING.** The vertical distance measured from the sidewalk level, or its equivalent established ground surface, opposite the middle of the front of the building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height level (between eaves and ridge) for gable and hip roofs.

**HOME OCCUPATION.** Any occupation which is clearly incidental to the principal use of the premises, is conducted by a resident occupant, and does not change the character of the principal use.

**HOSPITAL.** An institution providing health services and medical or surgical care, primarily for in-patients, to three or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical or mental conditions, and including as an integral part of the institution related facilities such as laboratories, out-patient facilities, or training facilities.

**HOTEL.** A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradiction to a boarding house as herein defined. A **HOTEL** has more than six guest rooms.

**HOUSEHOLD.** Any number of individuals living together on the premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel as defined herein.

**LABORATORY.** A place devoted to experimental study such as testing and analyzing materials, not including manufacturing or packaging of such materials, except incidentally.

**LAUNDROMAT.** An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public for family laundering purposes.

**LIGHT INDUSTRY.** The processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

**LINTEL SIGN SPACE.** A horizontal space on the front facade of a building immediately above and adjacent to a window or door. In older buildings, this space was previously occupied by windows.

**LIVABLE FLOOR AREA.** The square footage of floor area of a dwelling measured from the outside of the exterior walls, but not including attics, cellars, unfinished basements, open porches, breezeways, and garages. Only that floor area having a ceiling height of seven feet-six inches or more shall be considered as **LIVABLE FLOOR AREA**. An unfinished floor may be included as **LIVABLE FLOOR AREA** provided plans are submitted to the Zoning Administrator indicating in detail the layout of the rooms and, provided further, rough plumbing, heating ducts, and electric circuits are installed during construction of the building.

**LOADING BERTH.** An open, hard-surfaced area, (same as required for parking lots) other than the street or public right-of-way, the

principal use of which is for the standing, loading, and unloading of trucks and trailers. A minimum of 780 square feet, excluding access drives, is required.

**LOCAL STREET.** A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.

**LOT.** Land occupied or to be occupied by a building and its accessory buildings, or a principal use, together with such open spaces as are required under this chapter, and having its principal frontage upon a street or right-of-way or easement shown on a plat or survey which has been submitted to and approved by the Planning Commission and City Council.

**LOT, CORNER.** A lot abutting upon two or more streets at their intersection or junction or a lot bounded on two sides by a curving street where it is possible to draw two intersecting chords, one each commencing at each of the two points of intersection of the lot lines and street line, which intersect with each other to form an interior angle of less than 120 degrees.

**LOT COVERAGE.** The area of a lot occupied by the principal and accessory buildings.

**LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE.** A lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

**LOT, FRONT.** The portion of a lot abutting a public street. If a lot abuts two public streets, the **LOT FRONT** is the narrower of the two lot edges.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT LINES.** The lines bounding a lot as defined herein.

**LOT OF RECORD.** A parcel of land that is recorded as a lot in a subdivision that has been recorded on the records of the Renville County Recorder, Minnesota.

**LOT, REAR.** The portion of a lot directly parallel with the front property line, but on irregular lots.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the Manufactured Home Building Code established by M.S. § 327.31, Subd. 3, as it may be amended from time to time. Wherever the term **SINGLE-FAMILY DWELLING** or **SINGLE-FAMILY RESIDENTIAL STRUCTURE** or a similar term is used in this chapter, that term shall include a **MANUFACTURED HOME** as defined herein.

**MANUFACTURED HOME PARK.** A manufactured home park licensed by the State Department of Health under M.S. § 327.15, as it may be amended from time to time, and Minn. Rules parts 4630.0200 to 4630.2210, as may be amended from time to time.

**MOTEL.** A series of sleeping or living units, for the lodging of transient guests, offered to the public for compensation, and with convenient access to off-street parking spaces for the exclusive use of the guests of occupants.

**NON-CONFORMING BUILDING OR STRUCTURE.** Any building or structure lawfully existing at the time of the approval of this chapter, or any amendment to it rendering such building or structure non-conforming, which:

(1) Does not comply with all of the regulations of this chapter, or any amendment hereto, governing bulk, height, and yard requirements for the zoning district in which such building or structure is located; or

(2) Is designed or intended for a non-conforming use.

**NON-CONFORMING LOT OF RECORD.** An unimproved lot which was legally recorded on or before the effective date of this chapter which does not comply with the lot size requirements for any permitted use in the district in which it is located. Such lot is considered buildable only as stipulated in § 151.021.

**NON-CONFORMING USE.** Any building or land lawfully occupied by a use at the time of the approval of this chapter, or any amendment to it rendering such use non-conforming, which does not comply with all of the regulations of this chapter, or any amendment hereto, governing use for the zoning districts in which such use is located.

**NURSING HOME.**

(1) An establishment which provides full-time convalescent or chronic care, or both, for three or more individuals who are not related by blood or marriage to the operator and who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

(2) No care for the acutely ill, or surgical or obstetrical services, shall be provided in such an establishment; a hospital shall be construed to be included in this definition.

**OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**ODOROUS MATTER.** Any material that produces an olfactory response among human beings.

**OFFICE-SHOWROOM BUILDING.** A building in which at least 20% of the floor space is devoted to office activities, the remainder being used for either warehousing, display, light manufacturing, or research and testing. Floor-to-ceiling joist heights in the warehouse portion would be not more than 14 feet.

**OPEN SPACE.** The portion of a land parcel not occupied by buildings, other structures, or parking areas.

**PARKING LOT.** A parcel of land containing one or more unenclosed parking spaces whose use is principal to the lot as differentiated from an accessory use, as a residential lot.

**PARKING SPACE.** A surface area, enclosed or unenclosed, sufficient in size to store one motor vehicle, together with a street or alley and permitting ingress and egress of an automobile. A minimum of 170 square feet, excluding access drives, is required.

**PARKING STRUCTURE.** A deck or building, or part thereof, used or intended to be used for the parking and storage of motor vehicles at one or more levels.

**PARTICULATE MATTER.** Material other than water which is suspended or discharged into the atmosphere in a finely divided form as a liquid or solid.

**POLE BARN.** A building with a frame made of wooden or metal parts, with metal panels covering three or more sides, and without a full foundation.

**PORTABLE RECYCLING UNIT.** A mobile facility designed and used to collect cans, bottles, paper, cardboard, plastics, or other recyclable materials; may be moveable either under its own power or the power of separate device.

**PRINCIPAL BUILDING.** A building in which is conducted the principal use of the lot on which it is situated.

**PRINCIPAL USE.** The purpose for which land or a building or structure thereon is designed, arranged, intended, or maintained or for which it is or may be used or occupied.

**PRIVATE CLUB or LODGE.** A building and related facilities owned or operated by a corporation, association, or group of persons for social, educational, or recreational purposes of members regularly paying dues, but not primarily for profit or to render a service which is customarily carried on as a business.

**QUASI-PUBLIC.** Essentially public as in services rendered, although under private ownership or control.

**REACH.** A hydraulic engineering term to describe a longitudinal segment of a stream, or river influenced by a natural or human-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a **REACH**.

**RECREATION ESTABLISHMENT.** A facility used by a business or non-profit organization for play, amusement, or relaxation, not including the sale or consumption of alcohol.

**RECYCLE.** To process (as glass or cans) in order to regain material.

**RESTAURANT.** An establishment where food is available to the general public for consumption on the premises.

**RESTAURANT, CARRY-OUT.** An establishment which by design of physical facilities, or by service or packaging procedures, permits or encourages the purchase of prepared, ready-to-eat foods intended to be consumed off the premises.

**SALVAGE AND WRECKING YARD.** An outdoor facility used by a business engaged in the reclamation of parts or materials from machinery or buildings.

**SATELLITE ANTENNA.** A device for the reception of signals from communication satellites.

**SCHOOL, PRIMARY, SECONDARY, COLLEGE, OR UNIVERSITY.** Any accredited school having regular sessions with regularly employed instructors teaching subjects which are fundamental and essential for a general academic education, under the supervision of, and in accordance with, the applicable statutes of the State of Minnesota.

**SETBACK.** The minimum horizontal distance between any improvement and a lot line. A lot line is defined as the location where the lot line meets the city right-of-way. The rights-of-way may vary from street to street.

**SIGN.** A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, institution, organization, idea, or business.

(1) However, a **SIGN** shall not include any display of official court, public office notices, or traffic signs, nor shall it include the flag, separate emblem, or insignia of a nation, political unit of school or religious group, or lettering built into the wall of a building or other structure.

(2) A **SIGN** inside a building is not included unless its face is visible only from the exterior of a building. Each display surface of a sign shall be considered a **SIGN**.

**SIGN, BUSINESS.** A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

**SIGN, FLASHING.** Any illuminated sign including any sign illuminated by reflected or refracted light on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this chapter, any revolving illuminated sign shall be considered a **FLASHING SIGN**.

**SIGN, FREESTANDING.** A sign which is not attached to a building.

**SIGN, GROUND.** A freestanding sign which is not over five feet in height and has its longest edge abutting the ground.

**SIGN, PORTABLE.** A sign designed to be moved from place to place.

**SIGN, PROJECTED.** A projected sign shall consist of any sign which is attached to or represented on the surface of a building wall whose leading edge extends greater than 15 inches.

**SIGN, REPLACEMENT.** The removal and replacement of the frame of a sign; does not include merely changing the message panel or repainting the face of the sign.

**SIGN, SURFACE AREA.** The surface area of a sign is the total area that will contain the sign. For signs which are not rectangular in shape, the **AREA** shall be calculated upon the area of the smallest polygon which completely encloses the sign. For multi-faced signs, each display face shall be measured, except in the case of two-sided signs that are identical on both sides. Any material or color framing used to differentiate such sign from the background of the building or structure shall be included in measurement of the **SURFACE AREA**. In no case shall the supports, uprights by which the sign is supported, be included in determining the surface area of the sign unless such items are an integral part of the display. The Zoning Administrator may interpret the measurement of the sign area with a liberal, consistent interpretation. In no case shall temporary paper, water color, chalk, and the like, signs that are displayed in windows be counted as **SIGN SURFACE AREA**.

**SIGN, WALL.** A wall sign shall consist of any sign which is attached flat against or represented on the surface of a building wall. A **WALL SIGN** may have a depth of up to 15 inches.

**SMOKE.** Small gas-borne particles other than water that form a visible plume in the air.

**SOLAR STRUCTURE.** A structure designed for use of passive or active solar energy as part of its heating system.

**SPA.** A structure which is not completely enclosed within a building, designed for therapeutic use which is not drained, cleaned, or refilled for each individual, equipped, but not by way of limitation, with hydro jet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination. Industry terminology for a space includes, but is not limited to, **THERAPEUTIC POOL, HYDROTHERAPY POOL, WHIRLPOOL, HOT SPACE, and HOT TUB.**

**SPOT ZONING.** A colloquial term describing the geographic definition of a zoning district in such a manner that the resulting district is very small in relation to surrounding districts and is not compatible with surrounding districts.

**STACKING SPACE.** A portion of a driveway used for automobiles or trucks in a queue. The length of a **STACKING SPACE** is defined as 18 feet.

**STORY.** The portion of a building included between the surface of any floor and the surface of the floor above it, or, if there be no floor above it, then the space between the floor and ceiling above it. A basement designed or used for dwelling purposes for other than a janitor, maintenance person, or watchman, or for commercial purposes other than storage, shall be counted as one-half story. A cellar used for commercial purposes other than storage shall be counted as one-half story. No other basement or cellar shall be counted as a **STORY**. Any level or deck used exclusively for parking purposes shall be counted as one-half story.

**STREET.** A public thoroughfare which affords principal means of access to abutting property.

**STREET WALL.** The main wall nearest to and facing on a street, including sun parlors and bays, but not including bay windows.

**STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building such as bearing walls or partitions, columns, beams, or girders, or any substantial changes in the roof.

**STRUCTURE.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including manufactured houses and trailers not meeting exemption criteria in the Floodplain Management District.

**SUPERVISED LIVING FACILITY.** A residential structure in which non-family occupants receive room and board and guidance in daily personal activities.

**SWIMMING POOL or POOL.** A permanent or portable structure which is not completely enclosed within a building, whether below ground level, above ground level, or partially above and partially below ground level, intended for non-commercial use as a swimming pool and which exceeds 24 inches in depth capacity and has a surface area exceeding ten square feet.

**TERRACE.** A level plane or surfaced patio, directly adjacent to the principal building on the surface of the land or on the roof of a building.

**TODDLER.** All persons five years of age and younger.

**TOWNHOUSES.** A group of attached single-family dwelling units on a common lot.

**TRUCK TERMINAL.** A warehouse and distribution business specializing in the shipment of goods or materials and which generates significant numbers of semi-trailer trucks.

**USE, ACCESSORY.** A use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

**USE, PERMITTED.** A use which is lawfully established in a particular zoning district or districts and which conforms with all

requirements, regulations, and performance standards of such district.

**UTILITY BUILDING.** A detached accessory building used by the residents of a residential structure for storing tools and other personal property but not for the storage of motor vehicles.

**VARIANCE.** A modification or variation on the provisions of this chapter as applied to a specific piece of property, except that modification in the allowable uses within a zoning district shall not be permitted through the **VARIANCE** process.

**WAREHOUSING.** The storage of materials, goods, or equipment within an enclosed building as a principal use.

**WHOLESALING.** The selling of goods, equipment, or materials to another business that in turn sells to other customers.

**YARD.** An open space between a building and any lot line which is open to the sky unobstructed by any permanent or temporary uses or structures.

**YARD, FRONT.** A yard extending across the entire front of the lot and measured between the front line of the lot and the front line of the building, or any projection thereof other than steps, balconies, paved terraces, open decks, or bay windows.

**YARD, OPEN.** A yard in addition to front, side, and rear setbacks in which no structure, driveway, or parking space shall be located.

**YARD, REAR.** A yard extending across the entire rear of a lot and measured between the rear lot line and the rear of the building, or any projection thereof, other than steps, balconies, paved terraces, porches, or bay windows. On corner lots, the **REAR** shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the **REAR YARD** shall in all cases be at the opposite end of the lot from the front yard.

**YARD, SIDE.** A yard between the building and the side line of the lot extending from the front yard to the rear yard and measured between the sideline of the lot and the side of the building, or any projection thereof other than steps, balconies, paved terraces, open decks, or bay windows.

(Prior Code, § 151.004) (Ord. 149, passed 3-9-1998; Ord. 217, passed 9-10-2001)

#### **§ 151.005 RELIEF FROM PERSONAL RESPONSIBILITY.**

Any claim based upon act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and the section does not apply. The city shall defend, save harmless, and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this chapter, except as provided by M.S. § 466.07, as it may be amended from time to time.

(Prior Code, § 151.005)

### **NON-CONFORMING LOTS, USES, AND STRUCTURES**

#### **§ 151.020 INTENT.**

(A) Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited under the terms of this chapter or future amendment.

(B) It is the intent of this chapter to phase out such non-conforming uses within a reasonable time period while retaining full economic value. Such uses are declared by this chapter to be incompatible with permitted uses in the district involved. It is further the intent of this chapter that non-conformities shall not be enlarged upon, expanded, or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(C) However, in the case that the structure itself is now non-conforming as to the special setback requirements, but was built in accordance with the 1979 city zoning ordinance, that structure might be granted a conditional use permit to expand, providing that expansion would not be violating the provisions of the 1979 ordinance and it appears that such issuance of a conditional use permit is in the best interest of the city and the public.

(D) A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment of additional signs to a building, or the placement of additional signs to a building, or the placement of additional signs or display devices on the land outside the building, or by the addition of other uses, if such additions are of a nature which would be prohibited generally in the district involved.

(E) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun by the obtaining a zoning permit and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination, and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently carried on until the completion of the building involved.

(Prior Code, § 151.015) (Ord. 149, passed 3-9-1998)

#### **§ 151.021 NON-CONFORMING LOTS OF RECORD.**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area, width, or depth that are generally applicable in the zoning district, provided that other requirements not involving lot dimensions or area of lot shall conform to the regulations for the district in which such lot is located. Variance of yard dimensions and other requirements shall be obtained only through action of the City Planning Commission and City Council. Existing platted lots and lot splits prior to the effective date of this chapter do not need a variance for compliance with dimensional tabulations.

(Prior Code, § 151.016) (Ord. 149, passed 3-9-1998)

#### **§ 151.022 NON-CONFORMING USES OF LAND.**

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(B) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(C) If any such non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(Prior Code, § 151.017) (Ord. 149, passed 3-9-1998)

#### **§ 151.023 NON-CONFORMING STRUCTURES.**

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No such structure may be enlarged, extended, converted, reconstructed, or structurally altered unless the use of the structure is changed to one permitted within the district in which such building is located. The non-conforming use shall thereafter be resumed.

(B) Should such structure be destroyed by any means to an extent of more than 50% of its fair market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(C) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for more than one year, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(E) When a non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

(Prior Code, § 151.018) (Ord. 149, passed 3-9-1998)

#### **§ 151.024 REPAIRS AND MAINTENANCE.**

(A) On any building devoted in whole or in part to any non-conforming use, normal repair and maintenance may be done provided that the cubic space content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any city official charged with protecting the public safety, upon order of such official or the reconditioning required by updated building codes, fire codes, or energy codes.

(Prior Code, § 151.019) (Ord. 149, passed 3-9-1998)

### **ZONING ADMINISTRATION**

#### **§ 151.035 POWERS GIVEN TO THE CITY COUNCIL.**

The City Council may on its own motion, or the on request of the Planning Commission, or on petition of affected property owners:

(A) Change the zoning of a parcel of land from one classification to another;

(B) Change any of the regulations of this chapter as to the use of land in any district or as to the restrictions upon buildings or structures therein, by amendment to this chapter;

(C) Review and approve conditional use permits;

(D) Review site plans for multiple-family buildings (three or more units), commercial development, or industrial development and mandate the inclusion or alteration or elements of the plans to protect adjacent properties. When a variance, conditional use, or rezoning

is requested, the site plan must be reviewed by the Planning Commission and City Council;

(E) Hear and decide requests for variances from the literal provision of this code; and/or

(F) Hear and decide appeals by any person affected any alleged error in any order, requirement, decision, or determination made by any administrative officer in the enforcement of this chapter.

(Prior Code, § 151.030) (Ord. 149, passed 3-9-1998)

#### **§ 151.036 ENFORCEMENT.**

This chapter shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute, in the name of the city, any appropriate actions or proceedings against a violator as provided by law.

(Prior Code, § 151.031) (Ord. 149, passed 3-9-1998)

#### **§ 151.037 ENFORCEMENT OFFICER.**

(A) This chapter shall be administered and enforced by the Zoning Administrator, who shall be the Building Official, unless the City Council specifically appoints someone else. The Zoning Administrator shall be responsible for the enforcement of this chapter.

(B) The duties of the Zoning Administrator shall be as follows:

(1) Examine all applications pertaining to the use of land, buildings, or structures, and take other appropriate action on such applications when in conformance with the provisions of this chapter;

(2) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this chapter;

(3) 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;

(4) Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions, or alterations; order discontinuance of illegal work being done; or take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions;

(5) Maintain permanent and current records of this chapter, including maps, amendments, conditional uses, and variances; and

(6) Maintain a current file of all permits and notices of violation, discontinuance or removal for such time as necessary to ensure 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.

(Prior Code, § 151.032) (Ord. 149, passed 3-9-1998)

#### **§ 151.038 VARIANCES.**

(A) *Authority and conditions.*

(1) The City Planning Commission shall be the Board of Appeals and Adjustments and may allow a departure from the terms of the zoning regulations pertaining to height or width of structures, the size of setbacks, the number of parking spaces, and the size or location of signs where such departure would not be contrary to the public interest. A variance may be granted only in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the chapter.

(2) **UNDUE HARDSHIP**, as used in connection with the granting of a variance, means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subd. 14, as it may be amended from time to time, when in harmony with the chapter. The Board of Appeals and Adjustments or the governing body, as the case may be, may not permit as a variance any use that is not permitted under the chapter for property in the zone where the affected person's land is located. The board or governing body, as the case may be, may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The board or governing body, as the case may be, may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties.

(3) Specific conditions and safeguards may be imposed upon the premises benefitted by a variance as considered necessary to prevent injurious effects upon property in the neighborhood or upon public facilities and services. Violation of such conditions and safeguards shall be a violation of this chapter.

(B) *Procedures.*

(1) An application for a variance shall be submitted to the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council by ordinance to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information as well as such additional information as may be required by the Zoning Administrator:

(a) A site plan showing the property dimensions, existing and proposed buildings and other structures, existing and proposed

grading, landscaping, easement, and location of utilities, as applicable. The Zoning Administrator may require the applicant to obtain a certified survey at the time of application;

(b) The particular requirements of this chapter which prevent the proposed use or construction;

(c) The characteristics of the subject property which prevent compliance with the requirements of this chapter;

(d) The minimum reduction of the requirements of this chapter which would be necessary to permit the proposed use or construction;

(e) The particular hardship which would result if the particular requirements of this chapter were applied to the subject property; and

(f) If the variance is part of an application for commercial, industrial, or multiple-family residential site plan approval, all of the submittal requirements for a site plan, § 151.040(B) shall also apply.

(2) A public hearing shall be set, advertised, and conducted by the City Planning Commission in accordance with § 151.042.

(3) Within the time period established by M.S. § 15.99, as it may be amended from time to time, the City Planning Commission shall render its decision recommending granting or denying the variance. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed variance. Such plans and specifications shall remain a part of the permanent records of the City Planning Commission. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact.

(C) *Appeals.* A decision of the Planning Commission acting as the Board of Appeals and Adjustments is final subject to appeal to the City Council and the right of a later judicial review. Appeals to the Council of a decision of the Planning Commission acting as the Board of Appeals and Adjustments shall be decided within the time period established by M.S. § 15.99, as it may be amended from time to time.

(D) *Simple majority required.* Motions on variances require a simple majority of the City Council for passage based upon the recommendation Planning Commission.

(Prior Code, § 151.033) (Ord. 149, passed 3-9-1998)

#### **§ 151.039 ORDINANCE AMENDMENTS AND LAND REZONINGS.**

(A) *Authority.* This chapter and the zoning district map may be amended from time to time by ordinance duly enacted by the City Council; provided, however, that no such amendment shall be enacted except in accordance with the procedures of § 151.042 Public Hearings.

(B) *Initiation.* Proposed amendments or rezonings may be initiated by the City Council, by the Planning Commission, or by any one or more owners of real estate in the area to be affected by the amendment or rezoning or by the owner of an enforceable option to purchase property in the area affected by the amendment or rezoning.

(C) *Procedure.*

(1) When any proposed amendment or rezoning is initiated by the City Council, the Council shall transmit its proposal to the Planning Commission for a public hearing and report thereon.

(2) When any proposed amendment or rezoning is initiated by an owner or owners of real estate in the city, an application for such amendment or rezoning, addressed to the City Council, shall be filed with the City Administrator. A nonrefundable application fee, established from time to time by the City Council by ordinance to cover administrative costs, shall accompany the application. The application shall be in such form and contain such information as shall be prescribed from time to time by the Planning Commission, but shall in all instances contain the following information:

(a) The applicant's name and address;

(b) The precise wording of any proposed amendment to the text of this chapter; and

(c) In the case of a rezoning:

1. A legal description and street address of the property proposed to be reclassified;

2. The name and address of the property owner or owners of the property;

3. The present zoning classification and existing uses of the property to be reclassified;

4. The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof; and

5. A map clearly showing the property proposed to be rezoned, its present zoning classification, existing uses, and its initial use under the proposed zoning and, if deemed necessary by the Zoning Administrator, a land survey will be required.

(3) A public hearing shall be set, advertised, and conducted by the Planning Commission in accordance with § 151.042.

(4) Following the conclusion of the public hearing, the Planning Commission shall transmit to the City Council its recommendation in the form of a written report. Such report shall be accompanied by the findings of fact specifying the reasons for the recommendation.

(5) The City Council shall make a decision on the amendment within the time period established by M.S. § 15.99, as it may be amended from time to time.

(6) The chapter may be amended by a simple majority of the Council, except that the adoption or amendment of any portion of this chapter which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the Council.

(7) The City Council may apply a condition to a rezoning that would revert the site to the previous zoning classification if substantial development activity has not commenced on the site within two years of the date of rezoning approval.

(Prior Code, § 151.034) (Ord. 149, passed 3-9-1998)

#### **§ 151.040 SITE PLAN REVIEW.**

(A) *Generally.* The City Council declares it necessary and appropriate to require site plan approval of development in certain zoning districts to preserve and promote attractive, well-planned stable urban conditions. This includes all proposed multiple-family buildings (three or more units), commercial developments, and industrial developments. Site plan approval by the Zoning Administrator and/or the City Engineer must be obtained before a zoning permit is issued. True and accurate representation of the following requirements are the responsibility of the applicant.

(B) *Application for site plan approval.*

(1) Applications for site plan approval shall be on a form provided by the Zoning Administrator and shall include the established processing fee established by the Council by ordinance. In all cases, the site plan shall contain:

- (a) Name of project;
  - (b) Location of project, including a vicinity map;
  - (c) Name and mailing address of developer/owner;
  - (d) Name, telephone number, and mailing address of the project engineer and/or architect;
  - (e) Date of plan preparation;
  - (f) North point and graphic scale;
  - (g) Boundary line of project site with dimensions. All site plans shall be drawn at an engineering scale (such as 1 inch = 40 feet);
- and
- (h) A registered land survey if deemed necessary by the Zoning Administrator.

(2) The site plan shall also contain the following features, both existing and proposed, drawn by a registered engineer, architect, landscape architect, and/or land surveyor:

- (a) Topographic contours at a minimum interval of two feet;
- (b) Adjacent and on-site streets and street rights-of-way;
- (c) Utilities and utility right-of-way easements, man-hole rim elevations, and pipe elevations and sizes;
- (d) Buildings, signs, and light poles;
- (e) Parking and loading facilities;
- (f) Surface water collection and conveyance features including arrows indicating the direction of surface water flow over the map of proposed contours;
- (g) Surface water ponds, ditches, and wetlands;
- (h) Sidewalks and bicycle paths;
- (i) The location of tree cover, including the designation of trees of 15 inches in diameter or more;
- (j) Fences and retaining walls;
- (k) Shielded exterior refuse collection areas;
- (l) Landscaping, including species and minimum size (refer to § 151.105 Special Provisions—Landscaping);
- (m) Traffic flow on- and off-site;
- (n) Height above mean sea level of buildings;
- (o) Project data including square footage of buildings and number of parking spaces;
- (p) A description of proposed exterior finish materials; and
- (q) The current zoning of the property and a listing of all required federal, state, and city permits and the status of such applications.

(3) The Zoning Administrator may require the developer to submit the following items if he or she feels that they are important for adequate understanding of the project by the Planning Commission, City Council, and/or public:

- (a) Aerial photograph(s) of the site;
- (b) Cross-section drawings;
- (c) Perspective sketch(es); and/or
- (d) A professional analysis of traffic impact or other infrastructure impact (such as storm sewer, water, and sanitary sewer).

(C) *Review and recommendation by the Planning Commission.* In considering applications for site plan approval under this chapter, the Zoning Administrator shall consider the following: how the site plan relates to conditions both on and off the site, conformance with the city's comprehensive plan, the impact of the site plan on the existing and anticipated traffic and parking conditions, building location and height, sanitary sewer, water, signage, setbacks, and related matters. Applications for site plan approval shall be either granted or denied within the time period established by M.S. § 15.99, as it may be amended from time to time.

(D) *Developer's/builder's agreement.* Prior to issuing a zoning permit, the Zoning Administrator may require the developer/builder to sign an agreement with the city which assures that particular elements of the site plan approval application, either proposed by the applicant or imposed by the Zoning Administrator, City Engineer, or City Planning Commission, shall be carried out. The Planning Commission may require the applicant to post a performance bond or irrevocable letter of credit to ensure that certain improvements are implemented.

(Prior Code, § 151.035) (Ord. 149, passed 3-9-1998)

#### **§ 151.041 CONDITIONAL USES.**

(A) *Authority.* The City Council may, after review and recommendation by the Planning Commission, grant or deny a conditional use permit with a simple majority vote.

(B) *Standards and conditions for conditional uses.*

(1) A conditional use permit may be granted for the following uses only:

- (a) Any use specifically listed as a conditional use in the regulations applicable to the district in which it is specifically located;
- (b) Planned development in accordance with the provisions of §§ 151.080 et seq. of this chapter in any district; and
- (c) Any of the following uses in any residential or commercial district:
  - 1. Schools;
  - 2. Community recreation buildings and fields;
  - 3. Elderly high rise;
  - 4. Relocation of any structure larger than ten feet by 12 feet.

(d) Any of the following uses in any district: buildings, facilities, or premises of public service corporations to be used for public utility purposes necessary to the public convenience or welfare.

(2) A conditional use permit for the uses listed in §§151.080 through 151.091 shall be granted only if evidence is presented to establish:

(a) That the proposed building or use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of the public convenience and will contribute to the general welfare of the neighborhood or community;

(b) That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, utility facilities, and other matters affecting the public health, safety, and general welfare; and

(c) That the proposed building or use will be designed, arranged, and operated so as to permit the development and use of neighboring property in accordance with the applicable district regulations.

(C) *Procedure.*

(1) (a) An application for a conditional use permit shall be submitted to the Zoning Administrator. A nonrefundable application fee, as established from time to time by the City Council by ordinance, to cover administrative costs and costs of the hearing shall accompany each application.

(b) Except as specifically excused by the Planning Commission, the application shall contain the following information and be accompanied by the following submissions, as well as such additional information and submissions as may be prescribed by rule of the Planning Commission:

- 1. Legal description of the tract of land;
- 2. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development;
- 3. Evidence of the financial capability of the applicant to complete the proposed development;

4. Plans drawn to convenient scale, showing the current zoning classification and existing land use of the tract, and those tracts directly adjacent to it, and any significant topographical or physical features and all easements of the tract, and adjacent tracts. The Zoning Administrator may require a certified survey at his or her discretion at the time of application; locating lot corners is the applicant's responsibility;

5. Three copies of preliminary plans, drawn to a convenient scale, showing the same information as is required for site plan approval;

6. When the proposed development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted;

7. Copies of any restrictive covenants that are to be recorded with respect to property included in the proposed development;

8. When the development is to be constructed in stages or units, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit. No such stage or unit shall have a residential density that exceeds by more than 25% of the proposed residential density of the entire development. When a development provides for common open space, the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire development as the stages or units completed or under development bear to the entire development.

9. When it deems it to be necessary, the Planning Commission may require a traffic survey (conducted at the expense of the applicant) setting out and analyzing the effect that the development will have upon traffic in the streets and thoroughfares adjacent to and in the proposed development;

10. A statement showing the relationship of the proposed development to the comprehensive plan and future land use plan of the city; and

11. A statement as to why the proposed development is to be designed, arranged, and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations.

(2) A public hearing shall be set, advertised, and conducted by the Planning Commission in accordance with § 151.042.

(3) (a) After the conclusion of the public hearing, the Planning Commission shall transmit to the City Council a written report containing its recommendations concerning the proposed conditional use. Such report shall be accompanied by findings of fact specifying the reasons for the recommendation.

(b) The City Council may table the matter for up to 60 days to obtain more information on which to base its decision. Conditional use applications not acted upon within that time shall be considered to be approved.

(c) In any case where a conditional use permit is sought for the purpose of establishing a planned development district, the report of the Planning Commission shall contain specific findings as to the degree of compliance of the proposed development with the standards made applicable to planned developments by §§ 151.080 et seq. of this chapter and as to the degree to which the proposed development advances the purposes for which planned developments may be approved.

(4) (a) Except in the case of an application for a conditional use permit to establish a planned development district, which shall be governed by §§ 151.075 et seq., the City Council shall, within the time established by M.S. § 15.99, as it may be amended from time to time, of the receipt of the report of the Planning Commission, grant or deny the conditional use or refer the matter back to the Planning Commission for further consideration.

(b) The City Council shall not grant a conditional use unless it finds that the standards of §§ 151.075 et seq. of this chapter have been satisfied.

(5) One of the conditions of a conditional use permit is that it shall be valid only for a period of six months, (except when issued specifically for a planned development, in which case the period of validity shall extend to 18 months), after which the same shall be revoked in the event that any proposed construction, alteration, or operation has not been started in accordance with the terms of such permit.

(6) A certified copy of each conditional use permit shall be filed with the County Recorder. The conditional use permit shall include the legal description of the property included. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but the Council may in the future enact or amend this chapter to change the status of conditional uses.

(Prior Code, § 151.036) (Ord. 149, passed 3-9-1998)

#### **§ 151.042 PUBLIC HEARINGS.**

(A) *Setting of hearings.* For all requests brought before the City Council or the Planning Commission for which a public hearing is required by this chapter, the body in charge of conducting the hearing shall select a reasonable time and place for the public hearing on the request, or delegate such authority to the City Administrator.

(B) *Notice of hearings.*

(1) Notice of public hearings shall be given not more than 30 days and not less than ten days before the hearing by publication at least once in one or more official newspaper of the city. Such notice shall include the time and place of the hearing and a description of

the contents of the request to be heard to which the request applies.

(2) In addition to the general notice of the public, separate notice by letter shall be required for all property owners residing within the area, and for a distance of 350 feet from the boundaries of such area, where a request concerning property will be the subject of the hearing. Such notices shall be sent by the City Council, and addresses taken from current city records shall be deemed sufficient for such notification.

(C) *Conduct of hearing.* Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, or by written, signed letter.

(Prior Code, § 151.037) (Ord. 149, passed 3-9-1998)

**§ 151.043 FEES, CHARGES, AND EXPENSES.**

(A) The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, conditional use permits, appeal application, and other matters pertaining to this chapter. This schedule of fees is as follows.

(1) *Zoning permits.*

<i>Cost of Improvement</i>	<i>Fee</i>
\$0 to \$1,000	\$15
\$1,001 and over	\$1 for each \$1,000 increment

(2) *Variance applications.* Application fee: \$200.

(3) *Conditional use permit applications.* Application fee: \$75.

(4) *Rezoning applications.* Application fee: \$75.

(5) *Site plan reviews.* \$50.

(B) No application, permit, certificate, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Planning Commission unless or until preliminary charges and fees have been paid in full.

(C) If a dispute arises over a specific fee, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court. The process for reviewing the application, permit, certificate, or variance shall proceed as if the fee were paid. An approved application, permit, certificate, or variance shall be effective even though the fee is being held in escrow. After the district court’s determination of the appropriate fee, the fee shall be paid out of the amount held in escrow and the balance, if any, returned to the appellant.

(Prior Code, § 151.038) (Ord. 149, passed 3-9-1998)

**GENERAL PROVISIONS**

**§ 151.055 COMPLIANCE.**

Except as hereinafter provided, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered for the district in which it is located without complying with the provisions of this chapter.

(Prior Code, § 151.050) (Ord. 149, passed 3-9-1998)

**§ 151.056 BUILDING REQUIREMENTS.**

(A) No building or other structure shall hereafter be erected or altered to exceed in height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, side yards, or other open spaces, than herein required, or in any other manner be contrary to the provisions of this chapter.

(B) Premises identification: approved numbers or addresses shall be provided for all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. All buildings require a minimum height of four-inch numbers.

(Prior Code, § 151.051) (Ord. 149, passed 3-9-1998)

**§ 151.057 AREA REQUIREMENTS.**

(A) No part of a yard, or other open space, or of street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, except as modified hereinafter.

(B) No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Prior Code, § 151.052) (Ord. 149, passed 3-9-1998)

#### **§ 151.058 MINIMUM REQUIREMENTS.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. Wherever the requirements of this chapter are in variance with the requirements of this chapter or are in variance with the requirements of any lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

(Prior Code, § 151.053) (Ord. 149, passed 3-9-1998)

#### **§ 151.059 DWELLING ON ANY LOT OR RECORD.**

In any district where single-family dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record at the effective date of this chapter irrespective of its area or width, provided the applicable yard and other open space requirements are satisfied or modified by the City Council as set forth in § 151.039.

(Prior Code, § 151.054) (Ord. 149, passed 3-9-1998)

#### **§ 151.060 HEIGHT LIMITATIONS NOT APPLICABLE.**

The height limitations stipulated in this chapter shall not apply to the following.

(A) *Essential service structures, architectural features, and the like.* Church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, chimneys, smoke stacks, flag poles, radio and television towers, masts and aerials and parapet walls extending not more than four feet above the limiting height of the building.

(B) *Places of public assembly.* Places of public assembly in churches, schools, and other permitted public and semi-public buildings, provided that they are located on the first floor of such buildings; provided, that for each two feet by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district and further provided that the Planning Commission shall find that such additional height will not be materially detrimental to surrounding property.

(C) *Elevator penthouse and the like.* Elevator penthouses (elevator machinery loft), monitors, and scenery lofts, provided no linear dimension of any such structure exceeds 50% of the corresponding street lot line frontage. Fire towers, hose towers, cooling towers, grain elevators, industrial process towers, gas holders, or other structures, where a manufacturing process requires a greater height shall be excepted.

(Prior Code, § 151.055) (Ord. 149, passed 3-9-1998)

#### **§ 151.061 YARD AND FRONTAGE LIMITATIONS NOT APPLICABLE.**

In any district where front yards are required and where 40% or more of the frontage on one side of a street between two intersecting streets or around the circumference of a cul-de-sac is developed with buildings that have a front yard that is greater or less than the required front yard in the district, no building shall project beyond the average yard so established.

(Prior Code, § 151.056) (Ord. 149, passed 3-9-1998)

#### **§ 151.062 YARD SPACE, GENERAL.**

(A) Any building, structure, or use hereafter erected altered or established shall comply with the yard space requirements of the district in which it is located, except as specified below. The required yard space for any building, structure, or use shall be contained on the same lot as the building, structure, or use and such required yard space shall fall entirely upon land in a district or districts in which the principal use is permitted.

(B) Any required yard space shall be open from 30 inches above the ground to the sky except as specified elsewhere in this chapter.

(Prior Code, § 151.057) (Ord. 149, passed 3-9-1998)

#### **§ 151.063 PLACEMENT OF SINGLE- AND TWO-FAMILY RESIDENTIAL STRUCTURES ON LARGE LOTS.**

In any Residence District where a single- or two-family residential structure is to be developed on large lots which could later be re-subdivided and still meet the dimensional and area requirements for another lot of the district in which it is situated, such structure must be placed in a manner which would permit such re-subdivision. Accessory uses shall be exempted from this requirement.

(Prior Code, § 151.058) (Ord. 149, passed 3-9-1998)

#### **§ 151.064 YARD SPACE ENCROACHMENTS; PROJECTIONS INTO YARDS.**

The following projections may be permitted into any front, rear, or exterior side yard adjoining a street lot line:

(A) Cornices, sills, eaves, and other ornamental features to a distance of not more than two feet six inches;

(B) Fire escapes to a distance of not more than four feet six inches;

(C) Decks, in residential districts, to a distance of not more than one-half the distance into yards. No easement encroachments

permitted;

(D) Bay windows and chimneys and fireplaces to a distance of not more than three feet, provided that such features do not occupy, in the aggregate, more than one-third the length of the building wall on which they are located; and

(E) Retaining walls and landscaping timbers within easements by conditional use permit.

(Prior Code, § 151.059) (Ord. 149, passed 3-9-1998)

#### **§ 151.065 MORE THAN ONE PRINCIPAL BUILDING ON A LOT.**

Not more than one principal building shall be located on a lot in Residence Districts R-1 and R-2 except as provided in §§ 151.075 et seq.

(Prior Code, § 151.060) (Ord. 149, passed 3-9-1998)

#### **§ 151.066 HOUSING PROJECTS UTILIZING THE “ZERO LOT LINE” CONCEPT.**

Every development proposal which is designed or later modified so as to place the principal structure abutting a side property line in order to have only one open side yard or less, must file with the Zoning Administrator a signed copy of the recorded covenant with filing information assuring access through the adjacent yard for purposes of repairs and general maintenance and/or common wall construction. In some cases, the side yard could be the rear yard.

(Prior Code, § 151.061) (Ord. 149, passed 3-9-1998)

#### **§ 151.067 ACCESSORY BUILDINGS.**

(A) No accessory buildings shall be erected or located within any required side yard setback, except as provided in §§ 151.083 and 151.084 for R-1 and R-2 Districts.

(B) Utility buildings in residential districts shall not exceed 192 square feet (such as 12 feet by 16 feet) and shall be six feet or more from all lot lines of adjoining lots, and shall not be located within a utility easement.

(C) No accessory building or garage per single-family homes shall occupy more than 25% of a rear yard, nor exceed 1,000 square feet of floor area. Garages which exceed the aforesaid maximum may be allowed with a conditional use permit.

(D) No more than one utility building/structure shall be permitted on each lot.

(E) No accessory building or use shall be constructed or developed on a lot prior to the time of the principal building to which it is accessory, except by conditional use permit.

(F) Accessory buildings in all districts shall be located to the rear of the principal building.

(G) No accessory building in a commercial or industrial district shall exceed the height of the principal building except by conditional use permit.

(H) Utility sheds in residential districts which have floor areas greater than 120 square feet (such as ten feet by 12 feet) shall have a floating concrete slab.

(I) Pole buildings are allowed only by conditional use permit. Pole buildings shall be permitted only if siding and roofing in building materials are similar to the principal structure.

(J) Unattached garages require direct access by public-way or, in cases of interior lots, a side yard drive setback dimension no less than six feet between the property line and the principal structure.

(K) No accessory building shall be used for dwelling purposes.

(L) Swimming pools or game courts designed for private use shall be allowed if compliance with other zoning provisions is met.

(M) An accessory building, including, but not limited to, garages, carports, and breezeways attached to the principal building on a lot shall be made structurally a part thereof and shall comply in all respects with the height, yard, and area requirements of this chapter applicable to the principal building.

(N) Buildings that are constructed with flexible temporary material (i.e., canvass and the like), and are in place for a period over 12 months are required to obtain a conditional use permit.

(O) **PLAYHOUSES**, defined as a small model of a house, or a structure used as a small model house, that children can play inside of, are considered an accessory building.

(Prior Code, § 151.062) (Ord. 149, passed 3-9-1998; Ord. 226, passed 5-9-2005; Ord. 235, passed - -2007)

#### **§ 151.068 FENCES.**

(A) *Purpose.* The purpose of this section is to establish and to promote the public health, safety, and welfare, encourage an aesthetic environment, and allow for privacy, while maintaining access to light and air by regulating the location, height, type, and maintenance of all fences.

(B) *Permit required.* No person, firm, or corporation shall construct or cause to be constructed or erected within the city any fence

without first securing a zoning permit.

(C) *Prohibited fences.* The following fences are prohibited:

- (1) Barbed wire fences (with the exception of the agriculture district);
- (2) Electric fences (with the exception of the agriculture district);
- (3) Chicken wire;
- (4) Fences with broken glass or other sharp points imbedded;
- (5) Spiked fences; and
- (6) Any other type of fence that could result in injuries to persons climbing over.

(D) *Exceptions for hazardous fencing.* Hazardous or dangerous fences, such as those listed in division (C) above, shall only be permitted in the city for the following uses:

- (1) Public utility structures (at least eight feet above grade level); and
- (2) Communication support structures (at least eight feet above grade level).

(E) *Fence requirements in residential districts.*

(1) *Front yard.* Fences located in the front yard shall not exceed four feet in height. Opaque fences shall not exceed three feet in height.

(2) *Corner side yard.* Fences located in the corner side yard shall not exceed four feet in height. Opaque fences shall not exceed three feet in height. In addition, the maximum height may be increased to six feet beginning at the point of intersection of the corner sidewall and the rear wall of the principal structure to the rear lot line. For the purpose of this section, open decks and porches shall not be considered part of the principal structure.

(3) *Interior side yard.* Fences located in the interior side yard shall not exceed six feet in height.

(4) *Rear yard.* Fences located in the rear yard shall not exceed six feet in height.

(F) *Fence requirements for nonresidential districts.* No fence shall exceed eight feet in height along any side of the yard.

(G) *General requirements.*

(1) No fence shall be constructed in a manner that would block the view of vehicular traffic or restrict snow plowing of streets.

(2) No fence shall create problems with right-of-way maintenance or snow accumulation.

(3) All fences must be placed no less than two feet inside the property line. It is the owner's responsibility to verify the location of the property lines.

(4) It is suggested to have a surveyor locate property lines before installing fences. The city does not have surveyors on staff to perform this service.

(5) The side of the fence considered to be the face (the finished side) shall face adjoining property.

(6) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a public or private nuisance. Any such fence, which is, or has become dangerous to the public safety, health, or welfare, is a public nuisance.

(7) If the fence is in an easement, the city or utility company is not responsible for repair or replacement of any fence that is removed for purpose of work or maintenance of the easement.

(8) No fence shall obstruct free access to any fire hydrant, water meter, electric meter, natural gas meter, or public sidewalk.

(9) Link fences shall be erected in such a manner that the barbed end is at the bottom of the fence.

(10) No fence shall be constructed in such a manner as to impede or alter the natural surface water drainage of the property upon which the fence is constructed or any adjoining property.

(11) Any fence erected around a recreational activity, such as a tennis court or a baseball backstop, may exceed the height requirements set forth in this section.

(12) Permanent swimming pools must be protected by a fence at least four feet high, with a self-closing, self-latching lockable gate, built so that a four-inch sphere cannot pass through.

(13) Snow fences are permitted only between October 15 and April 15.

(H) *Non-conforming fences.* No existing fence not permitted by this section in the district within which it is located, except when required to do so by law or ordinance, shall be enlarged, extended, reconstructed, or structurally altered unless such fence is changed to one permitted in that district. Maintenance of a non-conforming fence will be allowed, however, when this includes necessary repairs and incidental alternations which do not expand or intensify the non-conforming fence.

(I) *Variance requests.* Should an applicant request a permit for a fence that does not meet the requirements listed in division (G), they may request a variance. As part of the variance, the applicant shall explain in writing how the proposed fence does not meet the general requirements of division (G), and why those requirements cannot be met.

(Prior Code, § 151.063) (Ord. 223, passed 4-14-2003)

### **§ 151.069 MAXIMUM OCCUPANCY.**

(A) *Maximum occupancy.* The maximum occupancy of any dwelling unit shall not exceed the requirements of this section. For the first occupancy, there shall be at least 150 square feet of floor space and there shall be at least 100 square feet of floor space for each additional occupancy thereof, with said floor space to be calculated on the basis of total habitable room area. Bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes, utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, workshops, and hobby and recreational areas shall be excluded from the calculation of total habitable room area.

(B) *Nuisance.* The following shall be defined as a nuisance: exceeding the maximum occupancy in any dwelling unit.

(C) *Ordinance adopted.* City code ordinance 222 entitled “General provisions and definitions applicable to the entire city code including penalty for violation” are hereby adopted in their entirety, by reference, as though repeated verbatim herein.

(Ord. 151.064, passed 4-9-2012)

## **ZONING DISTRICTS AND ZONING MAP**

### **§ 151.080 ESTABLISHMENT OF ZONING DISTRICTS AND PROVISIONS FOR OFFICIAL ZONING MAP.**

(A) For the purposes of this chapter, the city is hereby divided into districts, as shown on the official zoning map, which, together with all explanatory matter thereof, is hereby adopted by reference and declared to be part of this chapter. The districts shall be known as:

- (1) AG Agricultural District;
- (2) R-1 One-Family Residential District;
- (3) R-2 Multiple-Family Residential District;
- (4) B-1 Central Business District;
- (5) B-2 Highway Commercial District; and
- (6) M-1 Industrial District.

(B) The official zoning map shall be identified by the signature of the Mayor, attested to by the City Administrator and bearing the seal of the city under the following words: “This is to certify that this is the official zoning map referred to in §§ 151.075 et seq. of chapter number 151 of the City of Hector”, together with the date of adoption of this chapter. The zoning ordinance and official zoning map shall be kept on file in the office of the Zoning Administrator.

(C) Any unauthorized change of the official zoning map of whatever kind by person or persons shall be considered a violation of this chapter.

(D) All territories which may hereafter be annexed to the city shall be considered as being in the R-1, One-Family Residential District, until an amendment to this chapter shall place annexed land in a different zoning district. The Planning Commission shall review the zoning classification of any annexed land and shall report thereon to the City Council giving their recommendations as to the proper classification.

(E) Whenever any, street, alley, or other public way is vacated by official action of the City Council, 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.

(F) (1) *Establishment of service districts.* Pursuant to the authority granted by M.S. § 272.67, the city hereby divides the area within its municipal limits into an urban service district and a rural service district constituting separate taxing districts for the purpose of all municipal property taxes except those levied for the payment of bonds and judgments and interest thereon.

(2) *Urban service district.* The urban service district shall include all land within the boundaries of the city which are not included in the rural service district established by under this ordinance.

(3) *Rural service district.*

(a) The rural service district shall include only such unplatted lands, which need not be contiguous to one another, as in the judgment of the City Council at the time of adoption of this ordinance are: rural in character; are not developed for commercial, industrial, or urban residential purposes; are more than two and one-half acres in area; abut the township boundary on at least one side; and, are not benefitted to the same degree as other lands by municipal services financed by general taxation.

(b) The City Council may in the future, by amendment to this chapter, designate other lands (including lands outside the city which, if annexed) shall be included within the rural service district.

(4) *Lands included within the rural service district.* The following lands are designated to be included in the rural service district of

the city.

(5) *Transfer from rural service district to urban service district.* Whenever any parcel of land, owned by one person or by two or more persons jointly or in common at the time of its inclusion in the rural service district, is platted, in whole or in part, and whenever application is made for a permit for the construction of a commercial, industrial, or urban residential development or improvement to be situated on such parcel or any part thereof, the board or officer approving such plat or building permit shall report this to the City Council, which shall make and enter a resolution transferring such parcel from the rural service district to the urban service district. The term "improvement" shall include the provision of municipal services such as sewer, water, streets, or the like. Grading of land shall not be considered as an improvement, providing that such grading is limited to that required to minimize water drainage problems, and further provided such graded areas are placed into agricultural use or reseeded within one year.

(6) *Benefit ratio; tax rate.*

(a) It is the judgment of the City Council that the approximate ratio that exists between the benefits resulting from the tax supported municipal services to parcels of land of like market value, situated in the rural service district and in the urban service district, respectively, is one to four and a benefit ratio of one to four is hereby established.

(b) Taxes levied for payments of bonds and judgments and interest thereon shall be in addition to such tax.

(c) The benefit ratio may be changed by amendment to this chapter; however, in no event shall the tax rate for the rural service district be less than what the tax rate for such parcel would be if taxed by the adjacent township to which the parcel is located.

(7) *Annual review.* Each year the City Council shall:

(a) Review the status of all lands in the rural service district to determine whether such lands continue to qualify for inclusion in said rural service district; and

(b) Review the tax ratio applicable to such lands as determined under division (F)(6) above.

(8) *Services provided.* Except for fire, police, and planning services, the city will provide no other services to the lands in the rural service district beyond those customarily provided by the adjacent township to which the lands are located.

(Prior Code, § 151.075) (Ord. 149, passed 3-9-1998; Ord. passed 6-9-2014)

#### **§ 151.081 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists as to the boundaries of districts, as shown on the official zoning map, the following rules shall apply.

(A) Boundaries indicated as approximately following the centerlines of right-of-way lines of streets, highways, or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(C) Boundaries indicated approximately following city limits shall be construed as following the city limits.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as following rivers and streams should be construed to follow the approximate centerline of such river or stream, and should be construed as moving with the actual centerline.

(F) Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.

(G) Boundaries indicated as parallel to, or extensions of, features indicated in divisions (A) through (F) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(H) Where the street or property layout existing on the ground is at variance with that shown on the official zoning map, or in other circumstances not covered by divisions (A) through (F) above, the City Council shall interpret the district boundaries in accordance with §§ 151.080 through 151.091 .

(I) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Planning Commission may permit as a special consideration, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Prior Code, § 151.076) (Ord. 149, passed 3-9-1998)

#### **§ 151.082 RULES FOR STRUCTURES IN DISTRICTS.**

For all principal structures, including manufactured homes, permitted in the R-1 and R-2 Districts, the following shall apply.

(A) The minimum width of the main portion of all principal dwellings, including manufactured homes, shall be not less than 24 feet, as measured across the narrowest portion. Width measurement shall not take into account overhang or other projections.

(B) All principal dwellings, including manufactured homes, shall have at least 836 square feet of habitable interior room excluding garage and basement.

(C) All principal dwellings, including manufactured homes, and principal structures shall be placed on a permanent continuous perimeter masonry, concrete, or wood foundation that meets the requirements of the State Building Code and should be insulated in

accordance with the State of Minnesota Energy Codes. Siding must be attached to the home for the entire circumference of the structure and shall lap over the foundation by a minimum of one inch with eaves/soffit 12-inch overhang and shall have a roof pitch or angle of at least 4/12 or greater with shingles or tile.

(D) Principal dwellings, including manufactured homes, shall have a roof of gable or hip design and be covered with a city approved roofing material.

(Prior Code, § 151.077) (Ord. 149, passed 3-9-1998; Ord. 232, passed 6-18-2007)

#### **§ 151.083 MANUFACTURED PRINCIPAL DWELLINGS.**

(A) Manufactured homes must provide the manufacturer's approved foundation drawings as approved by the Commissioner of Administration. Homes are not permitted to remove the frames permitted by the State Building Code.

- (1) Manufactured homes must be those constructed after June 15, 1976, and must bear the HUD certification seal.
- (2) Tongues on all manufactured homes shall be removed.
- (3) Data plate and other information for the following are required for manufactured homes:
  - (a) Thirty pound roof load design;
  - (b) Zone 2 heating design;
  - (c) Adequate furnace and water heater design to include the substructure. Option - separate heating supply for substructure;
  - (d) Approved tap-in locations for substructure water service;
  - (e) Three inch vent through roof location for substructure per the state's Department of Health;
  - (f) Electric interlocked smoke detector schematic; and
  - (g) Manufacturer's design drawings for stairway location.

(4) The following alterations of manufactured homes requires manufacturer's approval and the alterations must be consistent with the provisions of the State Building Code and the Manufactured Home Building Code:

- (a) Relocation of furnace and/or water heater; and
- (b) Alteration of any structural components including roof, walls, and floor system, attaching garages, and the like.

(B) A written statement from the applicant clarifying the above is required.

(Prior Code, § 151.078) (Ord. 149, passed 3-9-1998)

#### **§ 151.084 AG AGRICULTURAL DISTRICT.**

(A) *Purpose.* The AG Agricultural District is intended to provide farming areas for the development of one- and two-family homes and complementary uses on larger parcels of land.

(B) *Permitted principal uses.* The following uses are permitted, as regulated herein, without special application requirements or conditions attached:

- (1) One- and two-family detached dwellings;
- (2) General farming;
- (3) Truck gardens and nurseries;
- (4) Forest preserves and game refuge areas;
- (5) Churches, schools (private and public), and community buildings;
- (6) Parks and playgrounds;
- (7) Family daycare;
- (8) Home occupations; and
- (9) Temporary buildings or structures and use customarily incidental to any of the above listed uses when located on the same property.

(C) *Conditional uses.*

- (1) Stables and riding academies;
- (2) Office of a veterinary and animal clinic;
- (3) Foster homes or group homes not licensed as Class "B" supervised living facilities;
- (4) Hospitals, sanitariums, and rest homes;

- (5) Gun clubs, golf courses, golf driving ranges, race tracks, and campgrounds;
  - (6) Cemeteries, including animal cemeteries;
  - (7) Raising of furbearing animals or kennels provided no cage or pen housing such animals is located nearer than 200 feet to any lot lines except that kennels may be within 100 feet of the lot lines;
  - (8) Airports, landing fields, hangers, masts, and other facilities for the operation of aircraft;
  - (9) Commercial radio and television towers and transmitters;
  - (10) Sanitary landfills;
  - (11) Migratory labor camps;
  - (12) Utility buildings such as substations, transformer stations, and relay stations without service or storage yards.
- (D) *Dimensional regulations.*
- (1) Minimum required lot area and dimensions.

<i>Minimum Lot Area per Dwelling</i>	<i>Minimum Lot Width</i>	<i>Minimum Lot Depth</i>
30,000 Sq. Feet	150 feet	200 feet

- (2) Minimum required setbacks, yards, and heights.

<i>Front Yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear Yard Setback</i>	<i>Build Height</i>
25 feet	25 feet	50 feet	35 feet for residential buildings 55 feet for any nonresidential building listed as a permitted use

(Prior Code, § 151.079) (Ord. 149, passed 3-9-1998)

**§ 151.085 R-1 ONE-FAMILY RESIDENTIAL DISTRICT.**

(A) *Purpose.* The R-1 Residential District is intended to provide residential areas for development of one-family homes and complementary uses on larger parcels of land.

(B) *Permitted principal uses.* The following uses are permitted, as regulated herein, without special application requirements or conditions attached:

- (1) One-family detached dwellings;
- (2) Parks and playgrounds;
- (3) Family daycare;
- (4) Home occupations;
- (5) Temporary buildings or structures and use customarily incidental to any of the above listed uses when located on the same property.

(C) *Conditional uses.*

- (1) Two-family and three-family houses on a lot of record prior to January 1, 1993;
- (2) Golf courses and related facilities;
- (3) Churches and houses of worship and related facilities;
- (4) Schools;
- (5) Seasonal on-site sales (such as Christmas trees);
- (6) Foster homes or group homes not licensed as Class "B" supervised living facilities;
- (7) Licensed day care centers;
- (8) Hospitals, sanitariums, and rest homes; and
- (9) Utility buildings such as substations, transformer stations, and relay stations without service or storage yards.

(D) *Accessory uses.*

- (1) Detached garages not exceeding 1,000 square feet;
- (2) Utility sheds not exceeding 192 square feet;
- (3) Gazebo or summer lawn-house; and
- (4) Permanent pools or game courts designed for private use.

(E) *Dimensional regulations.*

(1) *Required lot area.*

<i>Use</i>	<i>Minimum Lot Area</i>
One-family residence	13,000 Corner lot: 10,400 square feet

(2) *Required lot dimensions (feet).*

<i>Use</i>	<i>Minimum Lot Width</i>	<i>Minimum Lot Depth</i>
One-family residence	100 Corner lot: 80	130

(3) *Setbacks, yards, and heights.*

- (a) The above listed setback and yard requirements are subject to the following additional requirements.

<i>Use</i>	<i>Front</i>	<i>Corner Side</i>	<i>Interior Side</i>	<i>Rear</i>	<i>Height</i>
Single-family	25	25	6	25	35
Accessory Structures	N/A	N/A	6	6	16

- (b) There shall be a setback of six feet from an alley for all structures.

(4) *Maximum lot coverage.* Lot coverage shall not exceed 30%.

(Prior Code, § 151.080) (Ord. 149, passed 3-9-1998)

**§ 151.086 R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

(A) *Purpose.* The R-2 Multiple-Family Residential District allows single-family homes and complementary uses on land parcels that are smaller than those required in the R-1 District. Is also intended to provide areas offering a broad development range in housing units, yet retain the environment and character of less intensive residence areas through carefully established bulk and lot area requirements.

(B) *Principal uses.*

- (1) Single-family dwellings;
- (2) Two-family dwellings, three, four, five, and six-unit buildings, duplexes, and double bungalows;
- (3) Parks and playgrounds;
- (4) Family daycare serving ten or fewer persons; and
- (5) Class "B" supervised living facilities serving six or fewer persons.

(C) *Conditional uses.*

- (1) All conditional uses of the R-1 District;
- (2) Seven-unit to 12-unit buildings;
- (3) Neighborhood medical/dental clinics and offices, subject to maximum gross floor area of 5,000 square feet;
- (4) Business and professional offices, subject to a maximum gross floor area of 5,000 square feet;
- (5) Group home facility serving from seven to 16 mentally retarded or physically handicapped persons, provided there is a lot area of 800 square feet for each person accommodated;

- (6) Licensed nursing homes;
- (7) Private clubs, lodges, and fraternal organizations;
- (8) Public or quasi-public accredited educational institutions;
- (9) Mortuaries or funeral homes;
- (10) Licensed boarding houses for the elderly;
- (11) Bed and breakfasts; and
- (12) State licensed manufactured home parks.

(D) *Accessory uses.* All accessory uses of the R-1 District.

(E) *Dimensional regulations.*

- (1) *Minimum lot area and dimensions.*

<i>Use</i>	<i>Minimum Lot Area per Dwelling Unit</i>	<i>Minimum Lot Width</i>	<i>Minimum Lot Depth</i>
Single-family residence	13,000 Corner lot: 10,400	100 Corner lot: 80	130
Two-family residence	13,000 Corner lot: 10,400	100 Corner lot: 80	130
Three or more family residence	4,000*	None	None

\* Does not count area set aside for surface water ponding or wetland protection.

- (2) *Setbacks and heights.*

<i>Use</i>	<i>Front</i>	<i>Corner Side</i>	<i>Interior Side</i>	<i>Rear</i>	<i>Height</i>
Single-Family Residence	25	25	6	25	35
Two-Family Residence	25	25	10	25	35
4-,6-, or 8-Unit Residence	30	25	15*	35	35
Accessory Buildings	N/A	N/A	6	6	16

Notes:

\*Add 6 inches for each foot the average height of the building exceeds 20 feet.

-There shall be a setback of six feet from an alley for all structures.

-The minimum distance between townhouse or four- to eight-family buildings when the exterior walls are parallel shall be equal to the height of the exterior wall or 15 feet, whichever is greater. Four- to eight-unit buildings shall be no closer to one another at any point than 15 feet.

(F) *Parking requirements.* Parking shall be provided according to the regulations of §§ 151.105 et seq. Parking areas or circulation drives shall be set back at least six feet from any lot line.

(G) *Common wall dwellings.* Notwithstanding other provisions of § 151.084, one developer may construct two single-family dwellings with a common wall and boundary line on which there may be no building setback from the common boundary, provided:

- (1) Each lot shall meet all other setback requirements for a multiple-family dwelling; and
- (2) Separate services shall be furnished and provided to each dwelling for sanitary sewer and water.

(H) *Accessory buildings.* Accessory buildings shall observe the same setback requirements established for the multiple residence building. The City Planning Commission may require common walls for accessory buildings where common walls will eliminate unsightly and hazardous areas.

(Prior Code, § 151.081) (Ord. 149, passed 3-9-1998)

**§ 151.087 B-1 CENTRAL BUSINESS DISTRICT.**

(A) *Purpose.* The B-1 Central Business District is intended to allow retail and service business sites within the central “downtown” of

the city.

(B) *Permitted uses.* The following uses are permitted, as regulated herein, without special application requirements or conditions attached. Highly similar uses not listed may be allowed at the discretion and review of the Planning Commission and approval of the City Council:

- (1) Automobile repair and service shops;
- (2) Bakeries;
- (3) Banks;
- (4) Barber shops;
- (5) Candy and ice cream shops;
- (6) Convenience food stores;
- (7) Gas stations;
- (8) Offices;
- (9) Postal stations;
- (10) Drug stores;
- (11) Book stores;
- (12) Flower shops;
- (13) Laundromats and dry cleaning establishments;
- (14) Shoe repair and sales shops;
- (15) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, and delicatessens;
- (16) Hardware stores;
- (17) Medical services including clinics, hospitals, rest homes, and animal clinics;
- (18) Hair salons;
- (19) Photographic shops;
- (20) Funeral homes;
- (21) Apparel shops;
- (22) Commercial greenhouses;
- (23) Public utility buildings;
- (24) Any similar commercial establishment or professional service or commercial service not specifically stated or implied elsewhere in this section;
- (25) Residence when included as an integral part of the principal building to be occupied by the owner or his or her employee;
- (26) Buildings and uses customarily necessary to any of the above uses which may include the repair, alteration, finishing, assembly, fabrication, or storage of goods; and
- (27) Such uses shall not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhood.

(C) *Conditional uses.*

- (1) Automobile service that includes auto equipment sales, car wash service, new and used car sales lot, and trailer sales areas;
- (2) Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, and roller and ice skating rinks;
- (3) Hotels, motels, private clubs and lodges, wholesale establishments, taverns, night clubs, on-off liquor stores, trade schools, commercial parking garages, and ramps;
- (4) Drive-in restaurants, drive-in banks, and other drive-in services; and
- (5) Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhood.

(D) *Accessory uses.*

- (1) Any accessory use, building, or structure customarily incidental to a principal use permitted above, and located on the same lot; and
- (2) Parking and loading facilities, as regulated in §§ 151.105 et seq.

(E) *Dimensional regulations.* For uses permitted in B-1 Districts, there will be no requirements for lot area, height, frontage, lot coverage, yard sizes, or loading space. For uses requiring conditional uses permits - lot area, height, frontage, lot coverage, yard size, and loading space shall be specified by the Planning Commission.

(F) *Other requirements.* Refer to §§ 151.105 et seq., Special Provisions, for additional regulations pertaining to the following:

- (1) Site plan review;
- (2) Access, parking, and loading;
- (3) Landscaping and lighting;
- (4) Fences;
- (5) Outdoor storage and displays; and
- (6) Building facade materials.

(Prior Code, § 151.082) (Ord. 149, passed 3-9-1998)

#### **§ 151.088 B-2 HIGHWAY COMMERCIAL DISTRICT.**

(A) *Purpose.* The B-2 Highway Commercial District is intended to allow wholesale, retail, and service business sites that border near U. S. Highway 212.

(B) *Permitted uses.* The following uses are permitted, as regulated herein, without special application requirements or conditions attached. Highly similar uses not listed may be allowed at the discretion and review of the Planning Commission and approval of the City Council:

- (1) Automobile repair and service shops;
- (2) Bakeries;
- (3) Banks;
- (4) Barber shops;
- (5) Candy and ice cream shops;
- (6) Convenience food stores;
- (7) Gas stations;
- (8) Offices;
- (9) Postal stations;
- (10) Drug stores;
- (11) Book stores;
- (12) Medical services including clinics, hospitals, rest homes, and animal clinics;
- (13) Flower shops;
- (14) Laundromats and dry cleaning establishments;
- (15) Shoe repair and sales shops;
- (16) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, and delicatessens;
- (17) Hardware stores;
- (18) Hair salons;
- (19) Photographic shops;
- (20) Funeral homes;
- (21) Apparel shops;
- (22) Commercial greenhouses;
- (23) Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, and roller and ice skating rinks;
- (24) Hotels, motels, private clubs and lodges, wholesale establishments, taverns, night clubs, on-off liquor stores, trade schools, and commercial parking garages and ramps;
- (25) Drive-in restaurants, drive-in banks, and other drive-in services;
- (26) Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhoods;

- (27) Lumber yards;
- (28) Storage buildings;
- (29) Public utility buildings;
- (30) Residence when included as an integral part of the principal building to be occupied by the owner or his or her employees;
- (31) Automobile service including auto equipment sales, car wash service, new and used car sales lot, trailer sales areas, gasoline service stations, and auto repair garages;
- (32) Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, and roller and ice skating rinks;
- (33) Hotels, motels, private clubs and lodges, wholesale establishments, taverns, night clubs, on-off liquor stores, trade schools, and commercial parking garages and ramps;
- (34) Drive-in restaurants, drive-in banks, and other drive-in services; and
- (35) Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhood.

(C) *Conditional use permits.*

- (1) Recreational camping areas; and
- (2) Truck or bus terminals.

(D) *Accessory uses.*

- (1) Any accessory use, building, or structure customarily incidental to a principal use permitted above, and located on the same lot;
- (2) Parking and loading facilities, as regulated in §§ 151.105 et seq.; and
- (3) Signs as regulated in §§ 151.105 et seq.

(E) *Dimensional regulations.*

- (1) *Setbacks (feet).*

<b><i>Building Setback From:</i></b>	
Street right-of-way	25
Interior lot line	20
Residential zoning boundary	50
<b><i>Parking Lot or Circulation Drive Front:</i></b>	
Street right-of-way	10
Interior lot line	6
Residential zoning boundary	10
<b><i>Accessory Building Setback:</i></b>	
Street right-of-way	20
Interior lot line	6
Residential zoning boundary	50

(2) *Minimum lot requirements (feet).*

- (a) Lot area: 15,000 sq. feet;
- (b) Minimum lot width: 100; and
- (c) Minimum lot depth: 150.

(F) *Other requirements.* Refer to §§ 151.105 through 151.117 Special Provisions, for additional regulations pertaining to the following:

- (1) Site plan review;
- (2) Access, parking, and loading;
- (3) Landscaping and lighting;
- (4) Fences;
- (5) Outdoor storage and displays; and
- (6) Building facade materials.

(Prior Code, § 151.083) (Ord. 149, passed 3-9-1998)

**§ 151.089 M-1 MANUFACTURING DISTRICT.**

(A) *Purpose.* The M-1 Manufacturing District is intended to allow for development of areas where there is a transition in use occurring, but sites are not available which would allow for compliance with other district requirements. Industrial development will be allowed only as a conditional permitted use to ease land use transition, control development so that it is compatible with surrounding property, and establish dimensional requirements on an individual basis.

(B) *Permitted uses.* There are no permitted principal residential uses in the M-1 District:

(1) Any accessory use, building, or structure customarily incidental to a permitted conditional use listed below and located on the same lot therewith are not to exceed 320 square feet; and

(2) Parking and loading facilities, as regulated in §§ 151.095 et seq.

(C) *Conditional uses.*

(1) Buildings or land may be used for the following if granted a conditional use permit, and provided further that any objectionable features normally associated with these uses, such as those deemed to be hazardous, offensive, or objectionable by reason of odor, dust, cinders, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste, shall be ameliorated, controlled, or limited through design, mechanical devices, screen planting, and/or walls or other measures as specified by the Planning Commission, and authorized that the use and its day to day activity will not be unreasonably hazardous, noxious, or offensive.

(2) *Trade and services.*

(a) Any retail store, personal service, or business service establishments, subject to all regulations and such permits and licenses as may be required by law, including the following and other similar uses;

(b) Automobile or trailer sales and service establishments;

(c) Building materials and hardware, retail sales/repairs;

(d) Business and professional offices;

(e) Cultural, entertainment, and recreational establishments;

(f) General merchandising, apparel and accessories, and establishments;

(g) Car wash operations, including automated lanes;

(h) Catering establishments;

(i) Churches and houses of worship and related facilities;

(j) Convenience/food goods subject to a maximum of 5,000 square feet of sales area;

(k) Dog kennels;

(l) Drive-in or drive-up restaurants, banking facilities, and the like;

(m) Furniture, home furnishing and equipment, sales, and display;

(n) Hotels and motels;

(o) Any light manufacturing or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging, or bottling, except any use or process herein after specifically excluded or which would not be in keeping with the purpose of the district as stated above. Such determination shall be made by the Zoning Administrator upon review of the zoning permit application;

(p) Motor vehicle body shops;

(q) Post offices and other public service operations;

(r) Publishing, job printing, and blue printing;

(s) Nurseries, garden supply centers;

(t) Restaurants;

(u) Service stations; automobile repair shops (see § 151.109);

(v) Taverns;

(w) Trade and business schools;

(x) Theaters; and

(y) Warehousing, storage, and wholesaling. The storage, handling, assembly, and distribution of goods and materials for retail, wholesale, or on-site use.

(D) *Dimensional regulations.*

(1) *Setbacks (feet).*

<b><i>Principal or Accessory Building Setback From:</i></b>	
Street right-of-way	30
Interior lot line	6
Residential zoning boundary	50
<b><i>Parking Lot or Circulation Drive From:</i></b>	
Street right-of-way	10
Interior lot line	6
Residential zoning boundary	20

(2) *Minimum lot requirements.*

(a) No specific limits or requirements.

(b) Subject to the approval of the Planning Commission and the City Council under the conditions of the conditional use.

(E) *Other requirements.* Refer to §§ 151.095 et seq., Special Provisions, for additional regulations pertaining to the following:

- (1) Site plan review;
- (2) Access, parking, and loading;
- (3) Landscaping and lighting;
- (4) Fences;
- (5) Outdoor storage and displays; and
- (6) Building facade materials.

(Prior Code, § 151.084) (Ord. 149, passed 3-9-1998)

**§ 151.090 MANUFACTURED HOME PARKS.**

(A) *Manufactured home parks.*

(1) No manufactured home park shall be established except as a conditional use. The conditional use permit for such shall not be issued except after a public hearing. Only manufactured home parks licensed by the State Department of Health under M.S. § 327.15 and Minn. Rules parts 4630.0200 to 4630.2210, as they may be amended from time to time, shall be permitted in the city and granted a conditional use permit.

(2) No application for a conditional use permit for a manufactured home park shall be complete and no public hearing shall be held until the following information is submitted:

- (a) Location and size of the manufactured home park;
- (b) Location and size of each trailer site, dead storage area, recreation area, roadways, parking sites, and all setback dimensions;
- (c) Detailed landscaping plans and specifications, indicating that the park shall be screened and buffered in accordance with § 151.105;
- (d) Plans for sanitary sewer disposal, surface drainage, water systems, electrical services, and fuel systems; and
- (e) Such other information as is necessary to ensure conformance with the requirements of this chapter.

(B) *Overall minimum park requirements.*

- (1) Each manufactured home park shall be of sufficient size to contain at least 12 fully developed manufactured home sites and required accessory areas.
- (2) Each manufactured home park shall have access to a private street which is deemed adequate to service the anticipated traffic generated by the park.
- (3) Each manufactured home park shall provide public water and sewer facilities in accordance with standards determined by the city.
- (4) Each manufactured home park shall provide a common central TV antenna.
- (5) All fuel systems shall be maintained from a common central source metered to each individual coach site.
- (6) At least 10% of the land area within each manufactured park shall be designed for development for recreational purposes. Such spaces shall be developed and maintained by the owner of the manufactured home park.

(7) Each manufactured home park shall have one or more central community buildings.

(8) No manufactured home site, off-street parking space, building, or street shall be located within 30 feet of the boundary of any manufactured home park. This boundary area shall be landscaped and screening may be required by the city.

(9) Identification signs for the park shall be limited to one sign not exceeding six square feet for each outside street frontage. Such signs may be illuminated but not flashing. The maximum height of such signs shall be 20 feet.

(10) Each manufactured home park shall have an office which is distinctly marked and illuminated. Provisions shall be made for an adult caretaker to be on duty at the park at all times. The manufactured home park office shall maintain a registry showing the names and addresses of each resident and the make, type, and license of each manufactured home and automobile belonging to occupants of the coach sites.

(11) Provisions shall be made in the plans for every manufactured home park to provide for a street fronting on each manufactured home site. Such streets may be either public or private as agreed upon between the manufactured home park developer and the city.

(12) Each manufactured home park shall have a storm shelter of adequate size for all its residents on site.

(13) All manufactured home park streets shall be constructed of either asphalt or concrete, shall meet the standards specified by the City Engineer, and shall have concrete curb and gutter.

(14) The minimum street width shall be 36 feet (measured between the backs of curbs).

(15) Streets interior to a manufactured home park shall be privately owned.

(16) No cul-de-sac street may be more than 250 feet in length.

(17) Accessory structures shall be limited to one, ten foot by 12 foot utility building, the siding and color of which matches the manufactured home.

(18) Portions of each site not occupied by buildings or parking spaces shall be landscaped.

(19) Parking shall be located within the park's boundaries.

(C) *Zoning permit requirements.* Initial permits for the construction of manufactured home parks will not be issued for the development of less than 12 manufactured home sites. No permit will be issued until the developer provides site and construction plans indicating the following:

(1) Location and size of the manufactured home park;

(2) Location and size of each manufactured home site, dead storage areas, recreation area, roadways parking sites, and all setback dimensions;

(3) Detailed landscaping plans and specifications with appropriate buffering;

(4) Plans for sanitary sewer disposal, surface drainage, water systems electrical services, fuel systems, and trash disposal;

(5) Location and specifications for all streets abutting the manufactured home park and proposed driveways from such streets into the park;

(6) All road construction plans and specifications;

(7) Complete construction plans for all proposed structures; and

(8) Such other information as is necessary to ensure conformance with the requirements of this chapter.

(D) *Dimensional regulations.*

(1) Minimum lot dimensions (feet):

<i>Type of Manufactured Home</i>	<i>Depth</i>	<i>Width</i>
Single-wide manufactured home	100	50
Double-wide manufactured home	115	65
Depth shall be measured from edge of the road unless the lots are platted		

(2) Minimum building setbacks (feet):

<i>Use</i>	<i>Front</i>	<i>Rear</i>	<i>Main Entry Side</i>	<i>Secondary Entry Side</i>	<i>Interior Side</i>	<i>Corner Side</i>
Manufactured Home	25	10	25	10	-	-

Accessory Building	50	0	-	-	5	20
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(3) No manufactured house, parking space, or accessory building may be located within 30 feet of the exterior boundary of a manufactured home park.

(4) The developer shall provide five copies of the above required plans and shall submit a detailed description of construction plans indicating the time involved, cost estimates, stage developments, if any, and a detailed description of maintenance procedures and ground supervision and methods proposed for disposal of garbage and refuse.

(5) The city may require performance bonds in amounts adequate to insure that development proposed in the plan submitted is actually completed.

(6) All developers of manufactured home parks shall provide evidence that the plans therefor have been approved by the state's Department of Health and that the developer will comply with all recommendations, suggestions, and regulations specified by that Department relative to manufactured home park regulations.

(7) All manufactured homes shall be anchored in accordance with Minn. Rules parts 1350.2500 to 1350.3200, Stabilizing System for Manufactured Home Installation, as they may be amended from time to time.

(8) Any newly installed manufactured home older than 15 years from time of the zoning permit will require a conditional use permit.

(9) All relocated manufactured homes older than 15 years from the time of permit request require a conditional use permit. Approval may be granted, provided the following criteria are met:

- (a) Interlocked smoke detectors are required in each bedroom and in the corridor;
- (b) The windows must be double glaze;
- (c) One egress window is required from each bedroom;
- (d) Gas piping installation must be re-tested, re-inspected, and approved by the city;
- (e) The electrical service must be a minimum of 100 amp circuit breaker type with ground fault interruption; and
- (f) The manufactured home complies with the Manufactured Home Building Code established by M.S. § 327.31, Subd. 3, as it may be amended from time to time, and has not been altered to not comply.

(Prior Code, § 151.085) (Ord. 149, passed 3-9-1998)

**§ 151.091 R-3 HIGH DENSITY RESIDENTIAL DISTRICT.**

(A) *Purpose.* The R-3 High Density Residential District defines areas for the development of medium to high density, multiple-family dwelling structures and directly related complementary uses.

(B) *Permitted uses.* None.

(C) *Conditional uses.*

- (1) Conditional uses and special provisions of the R-1 and R-2 District except for single-family houses;
- (2) Multiple-family buildings, including apartments, townhouses, four-, six-, and eight-family buildings, and other residential structures containing three or more dwelling units;
- (3) Apartment buildings designed and marketed exclusively for the elderly;
- (4) Private parks and playgrounds/tot lots;
- (5) A state licensed residential facility serving from seven through 16 persons;
- (6) Group home/crisis shelters up to 5,000 square feet;
- (7) Licensed day care facilities that are not permitted principal uses under state law;
- (8) Conditions for "residential facilities", group homes, crisis shelters, and licensed day care facilities shall not be imposed which are more restrictive than those imposed on conditional uses or other multi-family residential property in the same district, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility; and

(9) The requirements of § 151.105 shall apply to the conditional uses described in § 151.086.

(D) *Accessory uses.*

- (1) Any accessory use building or structure customarily incidental to a use permitted above and located on the same lot therewith; and
- (2) All accessory uses of the R-1 District.

(E) *Dimensional regulations.*

(1) Minimum lot area, width, and depth:

<i>Use</i>	<i>Minimum Lot Area per Dwelling Unit</i>	<i>Minimum Lot Width</i>	<i>Minimum Lot Depth</i>
Three or more family residence	4,000*	None	None
Apartment building	Bedrooms per unit: 0: 2,500 sf/unit* 1: 3,000 sf/unit* 2: 3,000 sf/unit* 3: 3,500 sf/unit*	None	None
Apartments for the elderly	Bedrooms per unit: 0: 1,000 sf/unit* 1: 1,500 sf/unit* 2: 2,000 sf/unit*	None	None

\* Does not count area set aside for surface water ponding or wetland protection.

(2) The minimum lot area requirements listed above may be adjusted as follows:

(a) For each garage (parking unit) within or under an apartment building, subtract 400 square feet from the total minimum lot area; and

(b) For each private dwelling unit entrance, subtract 400 square feet from the total minimum lot area.

(3) Setbacks and heights:

<i>Use</i>	<i>Front</i>	<i>Corner Side</i>	<i>Interior Side</i>	<i>Rear</i>	<i>Height</i>
Three or more family residence	30	25	15*	35	35
Apartments	35**	35**	35**	35**	35
Accessory structures	30	25	6	6	16

\* Add 6 inches for each foot the average height of the building exceeds 15 feet.  
\*\* No less than 35 feet or the average height of the building, whichever is greater.

(4) There shall be a setback of six feet from an alley for all structures.

(5) The minimum distance between buildings when the exterior walls are parallel shall be equal to the height of the exterior wall or 15 feet, whichever is greater. Buildings shall be no closer to one another at any point than 15 feet.

(F) *Parking requirements.* Parking shall be provided according to the regulations of §§ 151.105 et seq.

(G) *Common wall dwellings.* Notwithstanding other provisions of § 151.084, one developer may construct two single-family dwellings with a common wall and boundary line on which there may be no building setback from the common boundary, provided:

(1) Each lot shall meet all other setback requirements for a multiple-family dwelling; and

(2) Separate services shall be furnished and provided to each dwelling for sanitary sewer and water.

(H) *Accessory buildings.* Accessory buildings shall observe the same setback requirements established for the multiple residence building. The City Planning Commission may require common walls for accessory buildings where common walls will eliminate unsightly and hazardous areas.

(I) *Required play area.* Any multiple-family housing development of 24 or more dwelling units (except housing for the elderly) shall plan for and provide “tot lot” play facilities for pre-school children. The City Parks Department and the City Council shall review and approve such play facilities. Developments immediately adjacent to (not across the street from) public parks having “tot lot” facilities shall be counted as a single project.

(J) *Condominiums.* Condominiums, as defined and regulated by M.S. Chapter 515, as it may be amended from time to time, shall be considered as “multiple-family dwelling structures” in this chapter and shall be subject to all R-3 District requirements, except as modified by the following.

(1) *Approval of condominiums floor plan.* The condominium “floor plan” required by M.S. § 515.13, as it may be amended from time to time, shall not be filed with the Registrar of Deeds until the same has been tendered to and approved by the city. A transparency

of the "floor plan" shall be given to the city along with a copy of declaration required by M.S. § 515.11, as it may be amended from time to time.

(2) *Converting existing structure to condominium use.* Where any existing multiple-family dwelling is proposed for conversion to a condominium use:

- (a) The proposed condominium use shall comply with all present zoning and building requirements.
- (b) A certificate of occupancy for each unit shall be at completion of construction.

(Prior Code, § 151.086) (Ord. 149, passed 3-9-1998)

## **SPECIAL PROVISIONS**

### **§ 151.105 SITE PLAN REVIEWS FOR MULTIPLE-FAMILY HOUSING, COMMERCIAL, INDUSTRIAL, OR MANUFACTURED HOME PARK DEVELOPMENTS.**

#### *(A) Screening.*

(1) All commercial or industrial principal and accessory buildings which are situated within and adjacent to a residential zoning district shall be screened from such district by a wooden wall or fence of not less than 100% opacity and not less than eight feet in height above the level of the residential district property at its boundary. Such wall or fence shall be set back from the property line at least five feet. In the setback area shall be planted a combination of coniferous and deciduous plants and, possibly, vines in order to soften the appearance of the fence or wall from the affected residential area.

(2) Walls or fences of lesser heights or planting screens may be permitted by the Planning Commission if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will 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 code would interfere with the provision of adequate amounts of light and air to the residential properties.

(3) 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 to not become unsightly, hazardous, or less opaque than when originally constructed.

#### *(B) Landscaping.*

(1) 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. All landscaped areas shall be kept neat, clean, and uncluttered. No landscaped area shall be used for the parking of vehicles or of the storage or display of materials, supplies, or merchandise.

(2) Landscaping shall include:

- (a) Tree planting at the rate of at least one tree per 800 square feet of landscaping area;
- (b) A combination of berming and tree planting; and
- (c) Berming with low ground cover (slopes shall be no greater than one foot in elevation per three horizontal feet).

(3) The minimum size of planted trees shall be two inches caliper for deciduous trees and six feet in height for coniferous trees.

#### *(C) Outdoor storage and displays.*

(1) Open storage in industrial or commercial district buildings shall be allowed only with a conditional use permit. All other storage shall be maintained within an enclosed building or structure.

(2) All materials, by-products, supplies, merchandise, or other similar matter not on display for direct sale, rental, or lease to the consumer or user shall be stored within a completely enclosed building or within the confines of a 100% opaque wall or fence no less than five feet tall or other buffering approved by the Planning Commission. Merchandise which is offered for sale as described heretofore may be displayed beyond the confines of a building only upon application to the City Council for special temporary permission and only following agreement to all conditions which may be attached to such authorization.

(Prior Code, § 151.095) (Ord. 149, passed 3-9-1998)

### **§ 151.106 OFF-STREET PARKING AND LOADING FACILITIES.**

#### *(A) Minimum size requirement.*

(1) Each space shall contain a minimum area of not less than 300 square feet including access drives, a width of not less than eight and one-half feet, and a depth of not less than 20 feet. Spaces for the physically handicapped shall be 12 by 20 feet, plus off loading zone.

(2) Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each issue and shall provide adequate space for storage and maneuvering of the vehicles it is designed to serve. The minimum dimensions allowable for a loading space or truck berth shall be 12 feet in width and 65 feet in depth.

*(B) Reduction and use of parking and loading space.* Off-street parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than that required under this chapter for a similar new building or use. Off-street parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter,

except as provided in § 151.038 (Variances). Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

(C) *How to calculate required parking.* In calculating the number of parking spaces required, the following rules shall govern.

(1) **FLOOR SPACE** shall mean the gross floor area of the specific use.

(2) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(3) For uses not specifically listed in this chapter, uses for which a specific number of spaces have not been defined or for joint parking facilities serving two or more different uses, the Zoning Enforcement Officer shall determine the number of spaces to be required by utilizing the requirements of the most similar use listed in § 151.107. Issuance of zoning permits for the above situations shall be subject to approval of all site plans.

(D) *Loading docks and berths.* Placement of loading docks and berths shall be limited to side and rear yards, except that where a dock or berth is so designed as to be fully enclosed and incorporated within a principal structure, including any vehicle being loaded or unloaded, such dock or berth may be placed in a front area.

(E) *Buffer fences and planting screens.* Off-street parking and loading areas near or adjoining residential districts shall be screened by a fence not less than eight feet in height and 100% opaque. On the residential side of such fence shall be a five-foot wide area which is landscaped with coniferous and deciduous plantings and approved by the Planning Commission. Plans of such screen or fence shall be submitted for approval as a part of the required site plan and such fence and landscaping shall be installed as part of the initial construction.

(F) *Access.*

(1) Parking and loading space shall have proper access from a public right-of-way.

(2) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard, and no driveway in the industrial district shall be closer than 50 feet from any right-of-way line of a street intersection. In R-1 and R-2 Residence Districts and the Commercial District, the minimum distance shall be 20 feet.

(G) *Location of parking facilities.* Off-street parking of trucks or buses with a gross weight of over four and one-half tons, except for deliveries and unloading, in all residential districts shall be prohibited

(H) *Lighting.* Lighting shall not be directed upon the public right-of-way and nearby or adjacent properties. Such illumination must be indirect or diffused.

(I) *Required site plan.* Any application for a zoning permit shall include a site plan or plot plan drawn to scale and dimensions showing off-street parking and loading space to be provided in compliance with this chapter. All new principal buildings shall be drawn to scale on a registered land survey (refer to § 151.040).

(J) *Application of parking and loading requirements.* Off-street parking and loading regulations shall apply to all buildings and uses of land established after the effective date of this chapter.

(K) *Required number of off-street spaces.* Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided on the premises of each use. Section 151.107 designates the minimum number of parking and loading spaces that are required to be provided and maintained at the time any new use or structure is occupied or any existing use or structure is enlarged or increased in capacity.

(Prior Code, § 151.096) (Ord. 149, passed 3-9-1998)

**§ 151.107 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS.**

<i>Land Use</i>	<i>Number of Spaces</i>	<i>Per Unit</i>
<i>Land Use</i>	<i>Number of Spaces</i>	<i>Per Unit</i>
All other commercial	5.5	1,000 sq. feet
Apartment building	1 plus 0.5 in common for visitors	Bedroom
Apartment building for the elderly	.5	Dwelling unit
Auto body shop	4	Service stall
Automobile service station	4	Service stall
Bed and breakfast inn	1 plus 1 for the owner	Sleeping unit
Bowling alley	5	Alley
Churches, auditoriums, and other places of assembly	1	4 seats
Convalescence of nursing homes	0.35	Bed
Convenience food store	1	1,000 sq. feet
Elementary and nursery schools	1.6	Classroom
Funeral home	1	5 seats

Grocery store	7	1,000 sq. feet
Hospitals	3	Bed
Junior high schools	1.6	Classroom
Manufactured homes	2	Manufactured home lot
Manufacturing	1 or 2	Employee on principal shift  1,000 sq. feet
Medical and dental clinics	5	Doctor or dentist
Motels, hotels	1	Sleeping unit
Museums and libraries	3	1,000 sq. feet
Office building (less than 20,000 sq. feet)	5	1,000 sq. feet
Office building (more than 20,000 sq. feet)	4	1,000 sq. feet
One- and two-family house	2	Dwelling unit
One- and two-family rental dwelling	1 per adult tenant	Dwelling unit (min. of 2 spaces)
Recreation center	1 or 5.5	4 seats or 1,000 sq. feet
Restaurants and taverns	1 or 1	Table or 2 stools
Retail business	5.5	1,000 sq. feet
Self-service car washes	4	Lane (3 on entrance side, 1 on exit side)
Senior high schools	4.5	Classroom
Townhouses, 4-, 6-, or 8-family buildings	2* plus 0.5 in common for visitors	Dwelling unit
Warehouse	1 or 1	Employee on principal shift  2,000 sq. feet
Drive through service - provide 80 feet of vehicle stacking. * Does not include the driveway in front of the garage door.		

(Prior Code, § 151.097) (Ord. 149, passed 3-9-1998)

**§ 151.108 BED AND BREAKFAST ESTABLISHMENTS.**

Bed and breakfast establishments (“establishment”) may be allowed as a conditional use in the city by permit as provided by the zoning and land use regulations established by the city if the following conditions are met.

- (A) The owner or resident manager of the establishment shall operate and reside at the facility.
- (B) The establishment shall conform to State Health and Building Code requirements.
- (C) The establishment’s owner must furnish evidence that licenses required by the state either have been issued or will be issued before commencing operation.
- (D) The establishment shall be limited to five guest rooms.
- (E) Guests shall not stay at the establishment for more than 30 days within any 90-day period.
- (F) The establishment shall provide a minimum of one off-street automobile parking space for each guest room and one off-street automobile parking space for the owner of the establishment.
- (G) Identifying signs for the establishment to be no more than 20 square feet in total, located on the building and consistent with the character of the building.
- (H) No cooking or cooking facilities shall be allowed or provided in the establishment’s guest rooms.
- (I) Meals shall be provided only to overnight guests of the establishment. The City Council may approve, at its sole discretion, the provision of meals for non-guests for special events, such as banquets or family gatherings, but only if adequate parking is provided and no increase in traffic volume will occur as a result of the special event. Approval may be limited to a single event or on an annual basis.

(J) The City Council may, at its sole discretion, waive parking and other non-health and safety requirements of land use and zoning ordinances of the city for facilities listed on the National Register of Historic Places.

(Prior Code, § 151.098) (Ord. 149, passed 3-9-1998)

### **§ 151.109 SERVICE STATION AND CAR WASH REGULATIONS.**

(A) *Automotive service stations.* Motor fuel stations are subject to submission of a site plan conforming to the following design standards and a statement agreeing to performance of those standards.

(1) The parcel of land shall not be less than 150 feet wide and 125 feet deep with one side facing on an arterial, minor arterial, or collector street.

(2) No curb cut on an arterial or collector street shall be within 75 feet and no curb cut on a local street shall be within 25 feet of the intersection of the project curb lines; no curb cut shall exceed 32 feet at the sidewalk line; the driveway installed with a curb cut shall not cause the public sidewalk to slope greater than one-fourth inch per foot; no more than three curb cuts shall be permitted.

(3) The pump islands shall observe the required front yard setback, 15 feet or more of which shall be landscaped and protected by a curb at least six inches high except for approved driveway crossings.

(4) All of the area of the parcel except that covered by buildings and landscaping shall be hard surfaced to control dust and drainage. Drainage and surfacing plans to be approved by City Engineer.

(5) An eight-foot tall, 100% opaque fence shall be installed and maintained along the property line where the line abuts a residentially zoned parcel. There shall be a five-foot wide strip of land on the residential side on the fence landscaped with a combination of deciduous and conifers plant approved by the City Planning Commission. Should the abutting area be zoned residential, a 50-foot setback is to be provided between the property line and any principal or accessory structure.

(6) A minimum of four parking spaces for each service stall shall be provided, none of which are within the service drives for the pumps nor within the required front yard; also, should the motor fuel station be a combined business, the portion of the site and structure devoted to such other business shall be calculated independently for determining parking to be provided.

(7) All lights shall be so located and/or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one foot-candle.

(8) The sale or rental of trailers, autos, campers, boats, or other merchandise requiring outside storage shall be considered a separate business, shall be approved as a separate business, and shall not occupy the minimum area required to conduct a motor fuel station.

(9) No obstructions shall be placed in the public right-of-way, handicapped ramps, parking stalls, or access drives.

(10) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or proposed developments.

(11) Provisions shall be made for on lot receptacles for the storage of trash in areas which are screened from the public view.

(12) Where vending machines are proposed as an accessory use, they shall be incorporated into the design of the structure.

(13) All fuel storage tanks shall be placed in conformance with state fire codes and so located that they may be serviced without the truck extending beyond the property line.

(B) *Car washes.* Car washes are subject to the submission of a site plan conforming to the following design standards and a statement agreeing to the performance of those standards.

(1) The minimum lot width shall be 125 feet at the front yard building setback line.

(2) No curb cut on an arterial or collector street shall be within 75 feet and no curb cut on a non-major thoroughfare shall be within 25 feet of the intersection of the project curb lines; no curb cut shall exceed 28 feet at the sidewalk line; the driveway installed with a curb cut shall not cause the public sidewalk to slope greater than one-fourth inch per foot; nor more than two curb cuts shall be permitted on any one public street.

(3) A side and rear yard setback of five feet shall be maintained between the parking area and any lot line adjacent to commercial or industrial districts. A side and rear setback of 50 feet shall be maintained between any parking area and any lot line adjacent to all Residential Zoning (R-1 and R-2) Districts.

(4) An eight-foot decorative fence, or a 15-foot wide planting strip and three-foot decorative fence shall be installed and maintained along the property line where the line abuts a residentially zoned parcel. Should the planting strip and fence combination be selected, the proposed planting plan shall be approved by the Planning Commission. Should the abutting area be zoned residential, a 50-foot setback is to be provided between the property line and any principal or accessory structure.

(5) Parking shall be provided in accordance with § 151.107.

(6) Interior curbs shall be constructed within the property lines to separate driving and parking surfaces from landscaped areas. Interior curbs required by this section shall be a normal six inches in height.

(7) All lights shall be so located and/or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one foot-candle.

(8) Selling or storage of commodities or services (including gasoline sales), other than as defined in this section, shall be conducted in conformance with the requirements of the zoning district in which the car wash is located.

(9) All washing facilities shall be completely within an enclosed building.

(10) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or proposed developments.

(11) Provisions shall be made for one lot receptacle for the storage of trash in areas which are screened from the public view.

(12) Vacuuming facilities shall not be located along public streets and shall be completely screened from public streets and adjacent property.

(13) Where vending machines are proposed as an accessory use, they shall be incorporated into the design of the structure.

(14) Where gasoline sales are involved, all fuel storage tanks shall be placed in compliance with the State Fire Code underground and so located that they may be serviced without the tank trunk extending beyond the property line. Where gasoline sales are also involved, compliance with service station requirements must be met.

(15) All wash water disposal facilities, including sludge, grit removal, and disposal equipment, shall be subject to the approval of the City Engineer and shall conform with all city ordinances regarding sewage and health provisions, and shall be designed so as not to affect detrimentally the city sewer system. A flammable waste trap is required.

(Prior Code, § 151.099) (Ord. 149, passed 3-9-1998)

### **§ 151.110 FILLING OR REMOVAL OF SOIL, SAND, OR OTHER MATERIALS.**

The dumping of dirt, rock, or other earthen material is permitted in any district not part of a drainage channel, provided the surface of such material is graded within a reasonable period of time and in a manner preventing the collection of stagnant water and that the ground surface is left in a condition suitable for the growing of turf or for other land uses permitted in the district.

(Prior Code, § 151.100) (Ord. 149, passed 3-9-1998)

### **§ 151.111 ANTI-BLIGHT REGULATIONS.**

(A) *Purpose.* The purpose of this section is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The City Council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content.

(B) *Findings.* The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations of the "Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses", dated June 6, 1989.

(1) Sexually-oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(2) Residential and commercial neighborhoods located within close proximity to sexually-oriented businesses experience the following negative impacts:

(a) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure, and other lewd and lascivious behavior;

(b) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually-oriented businesses;

(c) Increased transiency and decreased stability of ownership;

(d) Deteriorated neighborhood appearance from litter and graffiti;

(e) Sex-related harassment of residents and customers by motorists and pedestrians;

(f) A perception that the area is "unsafe"; and

(g) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(3) The adverse impacts which sexually-oriented businesses have on surrounding areas diminish as the distance from the sexually-oriented business increases.

(4) The adverse impacts of sexually-oriented businesses are exacerbated when the uses are located near each other.

(5) The presence of liquor establishments in the immediate vicinity of sexually-oriented businesses also compounds the adverse impacts on the neighborhood.

(6) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(7) 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 where they are located, thereby exacerbating the shortage of affordable and

habitable housing for city residents.

(8) The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(9) Land-use regulations are appropriate to minimize the detrimental effects that sexually-oriented businesses have on adjacent land uses.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The following words and terms shall have the following meanings when used in this section, except as provided otherwise in division (D) below.

***SEXUALLY-ORIENTED BUSINESS.***

(a) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

1. Has more than 25% of its inventory, stock in trade, or publicly displayed merchandise in sexually-oriented materials;
2. Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually-oriented materials; or
3. Derives more than 25% of its gross revenues from sexually-oriented materials; or

(b) A business that engages for any length of time in a sexually-oriented use as defined below or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

***SEXUALLY-ORIENTED MATERIALS.*** Visual, printed, or aural materials, and other objects or devices which:

- (a) Contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;
- (b) Are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or
- (c) Are designed for sexual stimulation.

***SEXUALLY-ORIENTED USE.*** Any of the following activities and businesses, even if the activity exists for only a short-time.

(a) ***ADULT BODY PAINTING STUDIO.*** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(b) ***ADULT BOOKSTORE.*** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if it meets the criteria established in the definition of ***SEXUALLY-ORIENTED BUSINESS*** above.

(c) ***ADULT CABARET.*** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on the depiction of nudity, specified sexual activities, or specified anatomical areas, or the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(d) ***ADULT COMPANIONSHIP ESTABLISHMENT.*** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(e) ***ADULT CONVERSATION/RAP PARLOR.*** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(f) ***ADULT HEALTH/SPORT CLUB.*** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(g) ***ADULT HOTEL OR MOTEL.*** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

(h) ***ADULT MASSAGE PARLOR/HEALTH CLUB.*** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(i) ***ADULT MINI-MOTION PICTURE THEATER.*** A business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(j) ***ADULT MODELING STUDIO.*** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

(k) ***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are

distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(l) **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(m) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in the definition of **SEXUALLY-ORIENTED BUSINESS** above.

(n) **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(o) **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**SPECIFIED ANATOMICAL AREAS.**

(a) Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.**

(a) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zooerastia;

(b) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(d) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(e) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

(f) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

(g) Human excretion, urination, menstruation, or vaginal or anal irrigation.

(D) *Exceptions.* This section does not regulate the following:

(1) Any material with significant literary content or social commentary;

(2) A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually-oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;

(3) Any person or organization exempted under M.S. § 617.295, as it may be amended from time to time;

(4) Any activity regulated under M.S. § 617.202, as it may be amended from time to time;

(5) Displaying works of art showing specified anatomical areas, so long as no sexually-oriented materials are for sale, and the business does not have a liquor license; and

(6) Movies rated G, PG, PG-13, NC-17, or R.

(E) *Location of a sexually-oriented business.*

(1) A sexually-oriented business may locate only in the B-1 District.

(2) No person may operate a sexually-oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

(a) Property used or zoned for residential uses;

(b) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;

(c) Premises licensed under the city code under the provisions relating to liquor, beer, 3.2% malt liquor, and wine licensing; and

(d) Another sexually-oriented business.

(F) *Sign restrictions for sexually-oriented businesses.* In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded-up and that the property is deteriorating, and to preserve the value of property surrounding sexually-oriented businesses, the following sign regulations apply to all sexually-oriented businesses, in addition to other sign regulations in the code.

(1) All signs must be flat wall signs. No signs may be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages.

(2) No merchandise, photos, or pictures of the products or entertainment on the premises may be displayed in, or immediately behind, window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

(3) Window areas must not be covered or made opaque in any way. No signs may be placed in a window. A sign no larger than one-square-foot must be placed on the main entrance door and must state, "adults only". The letters of this message must be a minimum of two inches high. The only other information on this sign may be the hours of operation.

(Prior Code, § 151.101) (Ord. 149, passed 3-9-1998) Penalty, see § 151.999

#### **§ 151.112 ANTENNAS AND TOWERS.**

(A) *Antennas and dish-type antennas having a diameter no greater than 30 inches.* Antennas and towers having over-all heights of 75 feet or less are a permitted use in all districts and are permitted encroachments on height requirements of this code. This includes towers of all types and antennas of all types and sizes except dish-shaped antennas having a diameter greater than 30 inches. Antennas and dish-shaped antennas having a diameter of 30 inches or less are exempt from any requirement for a building permit, but are subject to excavation permit requirements when applicable. Antennas and towers higher than 75 feet require a conditional use permit.

(1) *Vertical antennas.* The bottom of the base of a mast- or tower-mounted vertical antennas may be at a height of 75 feet or less with no over-all height limit for the top of the antenna. The highest point of any ground mounted vertical antenna, however, may be no more than 75 feet.

(2) *Directional satellite communications antennas.* The point at which the main boom of a directional, non-dish-type satellite communications antenna or antenna array is attached to its support structure (tower, mast, rotator, and the like) can be no more than 75 feet high. The uppermost part(s) of such antenna(s) can be at 100 feet.

(3) *Height.* The height of an antenna, dish antenna, or tower shall be measured from the adjacent ground elevation at the base of the antenna, dish, or tower to the highest point of the antenna or tower. If the antenna or tower is mounted on a building, height is measured from the average grade level on which the building is constructed.

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

**ANTENNA.** A wire or other device that receives or transmits radio waves.

**DIRECTIONAL SATELLITE COMMUNICATIONS ANTENNA.** Any directional antenna or antenna array designed to provide radio communications using satellites, manned or unmanned spacecraft, moonbounce, troposcatter, meteor-trail ionization, or similar vehicles or propagation modes.

**TOWER.** A structure to which an antenna is attached.

(B) *Installation requirements.* An excavation or building permit is required for all towers and antennas for which excavation is required. All antennas and towers must conform to the Uniform Building Code, the National Electric Code, the city/county airport zoning ordinance, and the regulations of the Federal Airways Administration (FAA) and Federal Communications Commission (FCC). Antennas or towers may be installed in utility casements if a waiver is obtained from the City Engineer and the City Council.

(C) *Tower locations.* Antennas and towers shall not be allowed nearer the street than the principal building on the lot; and nearer the rear or side lot lines than the minimum rear or side yard setback. Wire antennas are exempt from this requirement.

(D) *Encroachment.* No part of an antenna may extend beyond the lot line over an adjoining lot without written permission from the owner or lessee of that adjoining lot.

(E) *Reservations.* The city reserves the right to permit antennas, in its sole discretion, on the top of water towers, high rise buildings, and other structures.

(Prior Code, § 151.102) (Ord. 149, passed 3-9-1998)

#### **§ 151.113 RELOCATING STRUCTURES; HOUSE MOVING.**

A building, including an accessory building, which is proposed to be moved from one land parcel to another land parcel within the city shall require a conditional use permit and a building permit. Any relocated building not exceeding ten feet in width or 12 feet in length and being not over ten feet in height require only a building permit.

(Prior Code, § 151.103) (Ord. 149, passed 3-9-1998)

#### **§ 151.114 STORAGE OR TRANSFER OF FLAMMABLE LIQUID.**

There shall be no storage or transfer of Class I or Class II flammable liquid, including filling of underground storage tanks, within 50 feet of any dwelling.

(Prior Code, § 151.104) (Ord. 149, passed 3-9-1998)

### § 151.115 PERFORMANCE STANDARDS.

(A) *Compliance required.* No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration; smoke, dust, odor, or other form of air pollution; heat, cold, dampness, electrical, or other substance, condition, or element in such a manner, or in such amount, as to adversely affect the surrounding area of adjoining premises, provided that any use permitted or not expressly prohibited by this chapter may be undertaken and maintained if it conforms to the regulations of this section limited objectionable elements at the point of the determination of their existence.

(B) *Points of measurement.* The determination of the existence of any objectionable elements shall be made at the location of the use creating the same and at any points where the existence of such elements may be more apparent; provided, however, that the measurement necessary for enforcement of performance standards set forth in this section shall be taken at property line boundaries.

(Prior Code, § 151.105) (Ord. 149, passed 3-9-1998)

### § 151.116 SIGNS.

(A) *Purpose.*

(1) The purpose of this section is to provide standards for the use and display of signs. It is recognized that signs serve an important function and, therefore, reasonable and adequate display of signs is permitted under the provisions of this section. At the same time, this section recognizes that there is a definite need to regulate the display of signs as signs utilize the visual element of the public right-of-way to bring messages to the public. Limitations and standards are established herein consistent with the type of the district and the uses and activities in the district.

(2) Any sign placed on land or on a building for the purposes of identification or protection of the same or for advertising a use conducted thereon or therein shall be deemed to be accessory and incidental to such land, building, or use. It is the purpose of this section to place such limitations on the display of all signs as will assure that they will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification, protection, or advertisement.

(B) *General requirements.* Except as otherwise provided by this section, signs as defined in § 151.004, where permitted, shall comply with the following requirements.

(1) *Location.* No sign shall be placed in or extended over any public right-of-way in any district except the B-1 Central Business District. Pre-existing signs which violate required setbacks and/or encroachment of rights-of-way shall be considered as non-conforming structures. Signs in street right-of-way shall be eight feet above grade line. In no case shall signs create any traffic sight hazards.

(a) Pre-existing signs which violate required setbacks and/or encroachment or rights-of-way shall be considered as non-conforming structures.

(b) No sign shall be erected to project above the roof or parapet wall line of any building except by conditional use permit.

(c) Wall signs integral with, painted on, or attached flat against the face of the building and/or structure shall not extend more than 24 inches from such a structure.

(d) No temporary sign shall be attached to a light standard or the supporting pylon of a freestanding sign.

(2) *Measuring.* For multi-faced signs. Each display face shall be measured except in the case of two-sided signs that are identical on both sides.

(3) *Traffic hazard.* No sign shall be erected near or at any intersection of any streets in such manner as to obstruct free and clear vision, or at any location where by reason of position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device.

(4) *Marquees, canopies, and awnings.* Signs attached to a marquee shall not extend beyond the face or vertical surface of such marquee. No sign or sign structure, except as mentioned above, shall be placed on the roof of a marquee. No advertising shall be placed on any awning or canopy except the name of the owner and/or business conducted on the premises.

(5) *Freestanding signs.* Freestanding signs shall not exceed 27 feet in height above the ground on which they rest. No part of any sign may be within five feet of any property line.

(6) *Roof sign.* Roof-mounted signs are not permitted.

(7) *Wall signs.* Wall signs placed or painted on the exterior walls of buildings shall not extend beyond 24 inches of the wall surface. Wall signs attached to and projecting from the exterior walls of buildings shall not extend beyond 24 inches of the wall surface and shall not cover more than 15% of that business' wall.

(8) *Illumination.* The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded, or directed that the light intensity of brightness shall not adversely affect surrounding or facing residential districts, or adversely affect safe vision of operators of vehicles moving on public or private roads, highways, or parking areas. Light shall not shine or reflect on or into residential structures.

(9) *Maintenance of signs.* All signs shall be kept in good repair.

(10) *Other identification signs in business centers.*

(a) If a canopy or other building overhang is used, each business may have an under- canopy identification sign not exceeding four square feet.

(b) Each business may have an identification sign on its door not exceeding three square feet.

(C) *Sign standards by zoning districts.*

(1) *General.* The following sign standards by zoning district shall apply to every existing zoning district and new zoning district hereafter created unless otherwise expressly provided in such zoning districts. Only signs as described herein shall be permitted. Municipal signs are exempt.

(2) *Signs permitted in all zoning districts.* Subject to the other conditions of this chapter, the following signs shall be permitted in any zoning district within the city. Signs in divisions (C)(2)(a) to (C)(2)(d) shall be considered temporary. These signs and those described in division (C)(2)(g) shall be allowed to be placed in any required yard setback, not including boulevards or public right-of-way.

(a) *Construction signs.* One non-illuminated temporary sign facing each bordering street, identifying all parties engaged in the construction of a building, provided that the sign shall not exceed 35 square feet in area, does not obstruct the vision in the public right-of-way, and is removed within 30 days following occupancy of the building.

(b) *Real estate signs.* One non-illuminated real estate sign not over 5% of the wall to which it is attached advertising the sale, rental, or lease of only the building or premises on which it is located, or 12 square feet per side if freestanding.

(c) *Political signs.* All non-commercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election, and in the case of a special election, from 30 days before the special election to ten days after a special election.

(d) *Portable signs.* Portable signs are not permitted on highway frontage per M.S. §§ 173.01 and 173.02, as they may be amended from time to time. Portable signs may not be erected or placed for more than 30 days at a time.

(e) *Owner-occupant sign.* One residential name sign not to exceed two square feet per sign side in area, identifying only the name of the owner or occupant of a residential building.

(f) *Home occupation sign.* One non-illuminated identification sign, not to exceed four square per sign side in area, for the following permitted uses: residential professional offices, home occupations, and boarding-lodging houses.

(g) *Billboards.* Billboards are not permitted in any district, except billboards may be permitted only by conditional use permit in AG and B-2 Districts. Billboards are any permanent nongovernmental sign with not more than two sides advertising product services, commodities, entertainment, or other activity not offered at the location of the sign, or not exclusively related to the premises on which the sign is located. A billboard is a freestanding sign having an area of up to 200 square feet.

1. Billboards are not permitted within 500 feet of residential districts.

2. No permit shall be granted for any proposed billboard if it is within 1,500 feet of any existing billboard. Existing billboards shall be defined as any billboard located within or outside the city's municipal boundaries.

3. No billboard shall be erected on any roof of a building.

4. Billboards must be landscaped around the base of the sign.

5. A billboard may not be a principal use.

6. No billboard structure shall contain more than two signs per facing.

7. The maximum height of any portion of the sign, including trim and extensions, shall be not more than 30 feet.

(h) *Off-premises signs.* Off-premises signs are not permitted except with special permission of the City Council.

(3) *Signs permitted in residential districts.* Subject to the other conditions of this chapter, the following signs shall be permitted in residential districts.

(a) *Subdivision plat signs.* Temporary signs advertising a new subdivision plat, provided such signs do not exceed 48 square feet in aggregate surface area per sign side, identifying only the plat in which they are located, are nonilluminated, and are erected only at dedicated street entrances to the plat. Such signs shall be removed if construction of subdivision improvements is not in progress on the plat within 60 days following the date of the sign erection or as soon as 80% of the lots are developed and sold.

(b) *Club, lodge, and office signs.* One illuminated or non-illuminated identification sign not to exceed 40 square feet per sign side in area for the following uses: clubs, lodges, fraternities, and professional offices where permitted.

(c) *Civic/religious organizations and other permitted nonresidential uses.* One illuminated or non-illuminated identification sign or bulletin board not to exceed a total of 40 square feet in area for the following uses: public schools, parochial schools, colleges, public libraries, museums, social and recreational buildings, parks, playgrounds, hospitals, sanitariums, charitable and religious institutions, churches, cemeteries, and governmental office buildings.

(d) *Vacancy signs.* Vacancy signs within residential districts are limited to four square feet.

(4) *Signs permitted in highway commercial, agricultural, and industrial districts.* The following signs shall be permitted in the B-2, AG, and CI Districts.

(a) *Signs as permitted in residential districts.* Signs as permitted and regulated for the uses in the residence districts.

(b) *Business signs.*

1. Name plate signs and business signs are permitted, provided the aggregate square footage of sign space per lot shall not exceed the sum of four square feet per front foot of such lots. The maximum allowable being 200 square feet.

2. The maximum height of a freestanding sign shall not exceed 27 feet.

(5) *Signs permitted in the B-1 Central Business District.* Name and business signs are permitted, provided the aggregate square footage of sign per lot shall not exceed the sum of two square feet per front lineal foot of building. On corner lots, two front foot calculations are allowable provided such side contains a major building entrance. Signage shall be designed to enhance and complement the character of buildings within the district. All new signs, the replacement, alteration, painting, and so forth of an existing sign, requires a design review application.

(D) *Prohibited signs.* The following described signs are hereby declared a nuisance and shall be prohibited in all districts of the city.

(1) *Revolving and flashing signs.* Signs which revolve or flash or consist of lights which revolve or flash are prohibited with the exception of devices which inform the public of time and/or temperature. Moving message type signs shall be permitted as an exception when their messages consist primarily of news, public announcements and the like, or a non-advertising nature.

(2) *Signs imitating official signs.* Signs which imitate an official traffic sign or signal or which contain the words “stop”, “go slow”, “caution”, “danger”, “warning”, or similar words.

(3) *Confusing signs.* Signs which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device; or which hide from view any traffic or street sign or signal: or which obstruct the view in any direction view at a street or road intersection. Any sign that does or would interfere with the ability of drivers or pedestrians to see any traffic sign or signal or any crosswalk or otherwise constitute a public hazard.

(4) *Roof sign.*

(5) *Other temporary signs.* Signs which are pasted or attached to utility poles, trees, fences, or other signs.

(Prior Code, § 151.106) (Ord. passed - -; Ord. 149, passed 3-9-1998)

#### **§ 151.117 OPT-OUT OF M.S. § 462.3593.**

Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.

(Ord. 151.107, passed 8-8-2016)

## **MUNICIPAL AIRPORT ZONING**

#### **§ 151.130 PURPOSE AND AUTHORITY.**

The Hector and Renville County Joint Airport Zoning Board, created and established by joint action of the Common Council of the city, Hector City Council, and the Board of County Commissioners of Renville County, pursuant to the provisions and authority of M.S. § 360.063, hereby finds and declares that:

(A) An airport hazard endangers the lives and property of users of the Hector Municipal Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Hector Municipal Airport and the public investment therein;

(B) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Hector Municipal Airport;

(C) For the protection of the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards;

(D) The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation; and

(E) The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.

(Prior Code, § 151.120) (Ord. 162, passed 6-5-1984)

#### **§ 151.131 SHORT TITLE.**

(A) This subchapter shall be known as “Hector Municipal Airport Zoning Ordinance”.

(B) Those sections of land affected by this subchapter are indicated in the appendix which is attached to this chapter.

(Prior Code, § 151.121) (Ord. 162, passed 6-5-1984)

## § 151.132 DEFINITIONS.

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

**AIRPORT.** The Hector Municipal Airport located in parts of Sections 29, 32, and 33 of Township 115 North of Range 32 West, Renville County, Minnesota.

**AIRPORT ELEVATION.** The established elevation of the highest point on the usable landing area which elevation is established to be 1,077 feet above mean sea level.

**AIRPORT HAZARD.** Any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

**DWELLING.** Any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

**HEIGHT.** For the purpose of determining the height limits in all zones set forth in this subchapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**LANDING AREA.** The area of the airport used for the landing, taking off, or taxiing of aircraft.

**LANDING STRIP.** Any grass or turf covered area of the airport specifically designated and used for the landing and/or takeoff of aircraft. This term shall have the same meaning throughout this subchapter as does the term **RUNWAY**.

**NON-CONFORMING USE.** Any pre-existing structure, tree, natural growth, or use of land which is inconsistent with the provisions of this subchapter or an amendment hereto.

**NONPRECISION INSTRUMENT RUNWAY.** A runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

**PERSON.** An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

**PLANNED.** Refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, Division of Aeronautics and the city.

**RUNWAY.** Any paved surface of the airport which is specifically designated and used for the landing and/or taking off of aircraft.

**SLOPE.** An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

**STRUCTURE.** An object constructed or installed by people, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

**TRAVERSE WAYS.** For the purpose of determining height limits as set forth in this subchapter, shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet for the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

**TREE.** Any object of natural growth.

**UTILITY RUNWAY.** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

**VISUAL RUNWAY.** A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

**WATER SURFACES.** Have the same meaning as land for the establishment of protected zones.

(Prior Code, § 151.122) (Ord. 162, passed 6-5-1984)

## § 151.133 AIRSPACE OBSTRUCTION ZONING.

(A) *Airspace zones.* In order to carry out the purposes of this subchapter, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, and Transitional Zone, and whose locations and dimensions are as follows.

(1) *Primary Zone.*

(a) All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:

1. Extending 200 feet beyond each end of Runway 12/30; and
2. Coinciding with each end of Runway 4/22.

(b) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

1. Five hundred feet for Runway 12/30; and
2. Two hundred fifty feet for Runway 4/22.

(2) *Horizontal Zone.* All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,227.3 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent feet from all runways.

(3) *Conical Zone.* All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

(4) *Approach Zone.*

(a) All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

1. 40:1 for Runway 12/30; and
2. 20:1 for Runway 4/22.

(b) The approach surface expands uniformly to a width of:

1. 3,500 feet for Runway 12/30 at a distance of 10,000 feet to the periphery of the conical surface;
2. 2,250 feet for Runway 4/22 at a distance of 10,000 feet to the periphery of the conical surface.

(5) *Transitional Zone.* All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

(B) *Height restrictions.* Except as otherwise provided in this subchapter, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in division (A) above so as to project above any of the imaginary airspace surfaces described in division (A) above. Where an area is covered by more than one height limitation the more restrictive limitation shall prevail.

(C) *Boundary limitations.* The municipality may regulate height restriction zoning for a distance not to exceed one and one-half miles beyond the perimeter of the airport boundary.

(Prior Code, § 151.123) (Ord. 162, passed 6-5-1984)

#### **§ 151.134 LAND USE SAFETY ZONING.**

(A) *Safety zone boundaries.* In order to carry out the purpose of this subchapter, there are hereby created and established the following safety zone boundaries.

(1) *Safety Zone A.* All that land in the approach zones of a runway which is located within a horizontal distance as follows:

- (a) 2,107 feet for Runway 12/30; and
- (b) 2,600 feet for Runway 4/22.

(2) *Safety Zone C.* All that land which is enclosed within the perimeter of the horizontal zone and which is not included in Zone A or Zone B.

(B) *Use restrictions.*

(1) *General.* Subject at all times to the height restrictions set forth in § 151.133(B), no use shall be made of any land in any of the safety zones defined in division (A) above which creates or causes interference with the operations of radio or electronic facilities on the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

(2) *Zone A.* Subject at all times to the height restrictions set forth in § 151.133(B) and to the general restrictions contained in division (B)(1) above, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use hazards and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include agriculture, light outdoor recreation (nonspectator), cemeteries, and auto parking.

(3) *Zone B.* Subject at all times to the height restrictions set forth in § 151.133(B) and to the general restrictions contained in division (B)(1) above, areas designated as Zone B shall be used for the following purposes only:

(a) For agricultural and residential purposes, provided there shall not be more than one single-family dwelling per three-acre tract of land;

(b) Any commercial or industrial use which meets the following minimum standards:

1. Each single commercial or industrial use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage;

2. Each single commercial or industrial site shall be of a size not less than three acres;
3. Each single commercial or industrial site shall contain no dwellings and shall contain no more than one building per three-acre tract of land; and
4. The maximum ground area to be covered by a single commercial or industrial building shall not exceed the following minimum ratios with respect to the building site area.

<i>At Least (Acres)</i>	<i>But Less Than (Acres)</i>	<i>Ratio of Site Area to 1st Floor Bldg. Area</i>	<i>1st Floor Bldg. Area (Sq. ft.)</i>	<i>Max. Site Population (15 Persons/A)</i>
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,700	90
10	20	6:1	72,600	150
20	and up	4:1	218,000	300

(c) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theatres, stadiums, hotels and motels, trailer courts, camp grounds, and other places of public or semi-public assembly.

(4) *Zone C.* Zone C is subject only to the height restrictions set forth in § 151.133(B), and to the general restrictions contained in division (B)(1) above.

(C) *Boundary limitations.* The municipality may regulate the location, size, and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not to exceed two miles from the airport boundary and in other portions of an airport hazard area not to exceed one mile from the airport boundary.

(Prior Code, § 151.124) (Ord. 162, passed 6-5-1984)

#### **§ 151.135 AIRPORT ZONING MAP.**

The several zones herein established are shown on the Hector Municipal Airport Zoning Map consisting of three sheets, prepared by D.L. Noyes and dated August, 1974, revised March, 1975, September, 1977, November, 1980, and September, 1982, attached to and made a part of Ordinance 162, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this subchapter.

(Prior Code, § 151.125) (Ord. 162, passed 6-5-1984)

#### **§ 151.136 NON-CONFORMING USES.**

The regulations prescribed by this subchapter shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this subchapter, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this subchapter, and is diligently prosecuted and completed within two years thereof.

(Prior Code, § 151.126) (Ord. 162, passed 6-5-1984)

#### **§ 151.137 PERMITS.**

(A) *Future uses.* Except as specifically provided in subdivisions (A)(1) and (A)(2) below, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the Zoning Administrator hereinafter provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(1) However, a permit for a tree or structure of less than seven feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height or land use limit prescribed for the respective zone.

(2) Nothing contained in division (A)(1) above shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this subchapter as set forth in § 151.133 and the land use limitations set forth in § 151.134.

(B) *Existing uses.* Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this subchapter, or any amendments thereto, or than it is when the application for a

permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) *Non-conforming use abandoned or destroyed.* Whenever the Zoning Administrator determines that a non-conforming structure or tree has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this division or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed non-conforming structure, at his or her own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this subchapter. In the event the owner of the non-conforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed non-conforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

(Prior Code, § 151.127) (Ord. 162, passed 6-5-1984)

#### **§ 151.138 VARIANCES.**

(A) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this subchapter may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulation. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the Board.

(B) When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner of Transportation by certified mail that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to M.S. § 360.063, Subd. 6.

(C) Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this subchapter, provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment or Commissioner may deem necessary to effectuate the purpose of this subchapter.

(Prior Code, § 151.128) (Ord. 162, passed 6-5-1984)

#### **§ 151.139 HAZARD MARKING AND LIGHTING.**

(A) *Non-conforming uses.* The owner of any non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Hector Municipal Airport.

(B) *Permits and variances.* Any permit or variance granted by the Zoning Administrator or Board of Adjustment, as the case may be, may, if such action is deemed advisable to effectuate the purpose of the chapter and be reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question at his or her own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(Prior Code, § 151.129) (Ord. 162, passed 6-5-1984)

#### **§ 151.140 AIRPORT ZONING ADMINISTRATOR.**

It shall be the duty of the City Administrator to administer and enforce the regulations prescribed herein. The Zoning Administrator may be any individual, official, board, or existing agency from the municipality or county adopting the zoning ordinance and shall be appointed by the Airport Zoning Board. Applications for permits and variances shall be made to the City Administrator upon a form furnished by him or her. Permit applications shall be promptly considered and granted or denied by him or her. Variance applications shall be forthwith transmitted by the City Administrator for action by the Board of Adjustment hereinafter provided for.

(Prior Code, § 151.130) (Ord. 162, passed 6-5-1984)

#### **§ 151.141 BOARD OF ADJUSTMENT.**

(A) *Establishment.* The Board of Adjustment shall consist of five members appointed by the Hector and Renville County Joint Airport Zoning Board, and each shall serve for a term of three years and until his or her successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year, two for a term of two years, and two for a term of three years. Upon their appointment, the members shall select a Chairperson to act at the pleasure of the Board. Members shall be removable by the Joint Airport Zoning Board for cause, upon written charges, after a public hearing.

(B) *Powers.* The Board of Adjustment shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this subchapter;

(2) To hear and decide special exceptions to the terms of this subchapter upon which the Board of Adjustment under such

regulations may be required to pass; and

- (3) To hear and decide specific variances.

(C) *Procedures.*

(1) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this subchapter. Meeting of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be of public record.

(2) The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this subchapter.

(3) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this subchapter, or to effect any variation in this subchapter.

(Prior Code, § 151.131) (Ord. 162, passed 6-5-1984)

### **§ 151.142 APPEALS.**

(A) Any person aggrieved or any taxpayer affected by any decision of the Zoning Administrator made in his or her administration of this subchapter may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Zoning Administrator is an improper application of this subchapter as it concerns such governing body or board.

(B) All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the ground thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his or her administration of this subchapter who desires to appeal such decision shall submit an application for a variance by certified mail to the members of the Board of Adjustment in the matter set forth in M.S. § 360.068, Subd. 2.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceeding shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

(D) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(E) The Board of Adjustment may, in conformity with the provisions of this subchapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

(Prior Code, § 151.132) (Ord. 162, passed 6-5-1984)

### **§ 151.143 JUDICIAL REVIEW.**

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal, may present to the County District Court a verified petition setting forth that the decision of action is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this subchapter before availing himself or herself of the right to petition a court as provided in this section.

(Prior Code, § 151.133) (Ord. 162, passed 6-5-1984)

### **§ 151.144 CONFLICTS.**

Where there exists a conflict between any of the regulations or limitations prescribed in this subchapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

(Prior Code, § 151.135) (Ord. 162, passed 6-5-1984)

### **§ 151.998 VIOLATIONS.**

(A) It shall be the duty of all architects, contractors, subcontractors, builders, and other persons having charge of the erecting, altering, changing, or remodeling of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work

to see that such work does not conflict with and is not a violation of the terms of this chapter. Any such architect, builder, contractor, or other person doing or performing any such work of erecting, repairing, altering, changing, or remodeling shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom such buildings are erected, repaired, altered, changed, or remodeled in violation hereof and shall be held accountable for such violation.

(B) Any building or structure being erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or site hereafter erected or maintained, or land use made or permitted in violation of this chapter, is hereby declared unlawful. In the event of violation or threatened violation of this chapter or other official control adopted under applicable state law, in addition to other remedies, the City Council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violations and it is the duty of the City Attorney to institute such actions.

(Prior Code, § 151.998) (Ord. 149, passed 3-9-1998)

**§ 151.999 PENALTY.**

(A) A violation of § 151.111 is a misdemeanor under state law and is subject to the penalties and provisions of § 10.99 of the city code.

(Prior Code, § 151.101)

(B) Every person who shall construct, establish, substantially change, alter, or repair any existing structure or use, or permit the growth of any tree without having complied with the provisions of this subchapter, or who, having been granted a permit or variance under the provisions of this subchapter, shall construct, establish, substantially change or substantially alter, or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The Airport Zoning Administrator may enforce all provisions of this subchapter through such proceedings for injunctive relief and other relief as may be proper under the laws of M.S. § 360.073 and other applicable law.

(Prior Code, § 151.134)

(C) Any person, firm, corporation, or entity who violates any of the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter shall be guilty of a misdemeanor and, upon conviction, be punished as provided for in Minnesota Basic Code § 10.99 by a fine of not more than \$700 and sentenced to imprisonment for a specified term not more than 90 days for each offense, or both, plus the costs of prosecution in either case. Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.

(Prior Code, § 151.999)

(Ord. 162, passed 6-5-1984; Ord. 149, passed 3-9-1998)

**APPENDIX A: LAND AFFECTED BY MUNICIPAL AIRPORT ZONING.**

The Hector Municipal Airport Zoning Ordinance (§§ 151.130 through 151.144 of this code) affects all or a portion of the following sections of land.

<i>Name and Number of Township</i>	<i>Airspace Obstruction Zoning (§ 151.133)</i>	<i>Land Use Safety Zoning (§ 151.134)</i>
<u>Hector</u> T 115 N R 32 W	Sections: 19, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35	Sections: 20, 21, 27, 28, 29, 30, 31, 32, 33, 34
<u>Martinsburg</u> T 114 N R 32 W	Sections: 3, 4, 5, 6, 8, 9	Sections: 4, 5, 6
<u>Melville</u> T 115 N R 33 W	Sections: 25, 36	
<u>Palmyra</u> T 114 N R 33 W	Sections: 1	

## TABLE OF SPECIAL ORDINANCES

Table

**I. ANNEXATIONS**

**II. FRANCHISES**

**III. STREET NAME CHANGES**

**TABLE I: ANNEXATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
106	8-8-1950	Annexing Lots 8 through 14 of Block 1 and all of Second Street and all of Lot "D" of Erickson's Subdivision of the northeast quarter of the southeast quarter, Section 29, Township 115, Range 32 to the city.
107	8-8-1950	Annexing the village cemetery situated in the northeast quarter of the northwest quarter, Section 32, Township 115 North, Range 32 West; the First Addition to the Hector Cemetery situated in Lot 2 in the northeast quarter of the northwest quarter, Section 32, Township 115 North, Range 32 West; and the city airport area described as Tract 1, Lot (C) of Erickson's Subdivision of the northeast quarter of the southeast quarter of Section 29, Township 115 North, Range 32 West, east of the right-of-way of State Highway 4; Tract 2, Lot "B" in the southeast quarter of Section 29, Township 115 North, Range 32 West, east of the right-of-way of State Highway 4; Tract 3, all that part of the northeast quarter of Section 32, Township 115 North, Range 32 West, lying north of the center line of judicial ditch 15 and east of the right-of-way of State Highway 4; and Tract 4, part of the northwest quarter of the northwest quarter of Section 33, Township 115 North, Range 32 West to the city.
114	6-6-1955	Annexing the following described lands to the city: Outlot 1 in the northeast quarter of the northwest quarter of Section 29, Township 115, Range 32; that part of the east one half of the southwest quarter of Section 20, Township 115, Range 32 West of the Fifth P.M.; the 33 feet of Outlot B, being a part of the east one half of the northwest quarter of Section 29, Township 115 North, Range 32 West; and Outlots B and C, situated in the east one half of the northwest quarter of Section 29, Township 115 North, Range 32 West.
115	9-13-1955	Annexing Blocks 1 and 2 of Miller's Addition to the city, situated in the northeast quarter of the northwest quarter of Section 29, Township 115, Range 32 to the city.
128	6-14-1966	Annexing certain unincorporated unplatted land described as a part of the north half of the northwest quarter of Section 29, Township 115 North, Range 32 West to the city.

140	6-13-1974	Annexing Lot 2 of the northeast quarter of the southeast quarter of Section 29, Township 115 North, Range 32 West to the city.
145	1-9-1979	Annexing part of the northwest quarter of Section 33, Township 115 north, Range 32 West to the city.
233	5-29-2007	Annexation of approximately four acres for a fire hall.
2015-1	9-14-2015	Annexation of adjacent property.

**TABLE II: FRANCHISES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
125	10-26-1965	Granting to Minnesota Natural Gas Company a nonexclusive franchise to operate a gas system within the city and to supply gas to the inhabitants thereof for a period of 25 years.
133	5-25-1970	Granting to Northern States Power Company a franchise to operate an electric distribution system and transmission lines to transmit electric energy into and through the city for a period of 20 years.
170	6-11-1990	Granting to Northern State Power Company a franchise to construct, operate, repair, and maintain in the city an electric distribution system and transmission lines for the furnishing of electric energy to the city for a period of 20 years.
125	10-9-1990	Granting to Minnegasco, Inc. a nonexclusive franchise to construct, operate, repair, and maintain facilities and equipment for the transportation, distribution, manufacture, and sale of gas energy for public and private use for a period of 20 years.
196	7-10-1995	Granting a franchise to DD Cable Holdings, Inc., dba Midwest CableVision, to construct, operate, and maintain a cable television system in the city.
237	9-20-2010	Extension of the expiration date of a cable franchise.
238	9-20-2010	Granting a franchise to an electricity provider.
125	2-14-2011	Granting a natural gas franchise.
125-A	3-11-2013	Granting a natural gas franchise.

**TABLE III: STREET NAME CHANGES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
		Designating the name changes of the following streets:

129	9-26-1966	<p>Changing Railroad Avenue to Bryant Avenue NE; changing 2nd Avenue to Colfax Avenue NE; changing 3rd Avenue to Dupont Avenue NE; changing 2nd Street to 2nd Street NE; changing 1st Street to 3rd Street NE; changing an unnamed street to Ash Avenue E; changing Maple Street to Birch Avenue E; changing Walnut Street to Cedar Avenue E; changing Hazel Street to Douglas Avenue E; changing Park Street to Elm Avenue E; changing Highway 212 to Highway Avenue E; changing Second Street to Second Street E; changing First Street to Third Street E; changing Oak Street to Fourth Street E; changing Elm Street to Fifth Street E; changing Ash Street to Sixth Street E; changing Linden Street to Seventh Street E;</p> <p>changing proposed street to Eighth Street E; changing proposed county road to Ninth Street E; changing First Street to Ash Avenue W; changing Maple Street to Birch Avenue W; changing Walnut Street to Cedar Avenue W; changing Hazel Street to Douglas Avenue W; changing Park Street to Elm Avenue W; changing Highway 212 to Highway Avenue W; changing unnamed street past Catholic cemetery to Greenwood Avenue W; changing Fourth Street to Second Street W; changing Ridge Street to Third Street W; changing Willow Street to Fourth Street W; changing Pine Street to Fifth Street W; changing Eighth Street to Sixth Street W; changing Ninth Street to Seventh Street W; and changing Tenth Street to Eighth Street W.</p>
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## PARALLEL REFERENCES

- References to Minnesota Statutes
- References to Minnesota Rules
- References to Prior Code
- References to Resolutions
- References to Ordinances

### REFERENCES TO MINNESOTA STATUTES

<i>M.S. Cites</i>	<i>Code Section</i>
<i>M.S. Cites</i>	<i>Code Section</i>
12.25	34.01, 34.04
12.31	34.06
Chapter 13	33.15, 33.16, 33.03
Chapter 13D	30.01, 33.03
14.57 to 14.69	112.36, 112.99
15.99	151.038 – 151.041
18.36, Subd. 13	91.03
18G.13	91.02

65B.48, Subd. 5	74.03, 75.04
84.81 through 84.91	73.06
115.01, Subd. 5	53.001
115.01, Subd. 20	53.061
115.07	53.001
157.16	112.03
157.16, Subd. 3d	112.03
Chapter 169	70.01, 74.04, 75.05, 76.07
169.011	70.02
169.045	74.02, 74.07
169.045, Subd. 7	74.04
169.68	92.08
169.70	74.04, 75.05
169.522	74.04
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216C.06, Subd. 14	151.038
237.162	90.10
237.163	90.10
260.125	130.99
272.67	151.080
Chapter 273	94.06
278.01 to 278.03	113.09
300.06	90.04
326B.84	150.02
326B.101 to 326B.194	150.01
326B.121, Subd. 2	150.01
326B.133, Subd. 1	150.01
326B.148	150.01
327.15	151.004, 151.090
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Chapter 329	111.03
Chapter 340A	110.20, 112.01, 112.02, 112.20, 112.23, 112.36, 112.99
340A.101	112.03, 112.22
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340A.404, Subd. 4a	112.22
340A.404, Subd. 4b	112.22
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340A.408, Subd. 2b	112.22
340A.408, Subd. 3	112.22
340A.408, Subd. 5	112.23
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340A.504, Subd. 3b	112.22
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340A.801	112.25
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347.515	93.32
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360.068, Subd. 2	151.142
360.073	151.999
364.03, Subd. 2	113.08
364.03, Subd. 3	113.08
364.06	33.15, 33.16
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412.591, Subd. 2	31.02
Chapter 429	53.072, 91.05, 94.01
429.101	90.44, 91.05, 92.28
443.015	50.07
444.23	94.06
462.354, Subd. 1	32.055
462.357, Subd. 3	32.059
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462.3593, Subd. 9	151.117
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## REFERENCES TO MINNESOTA RULES

<i>Minn. Rules</i>	<i>Code Section</i>
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<i>Minn. Rules</i>	<i>Code Section</i>
Parts 1350.2500 to 1350.3200	151.090
Part 4630.0200	151.004
Parts 4630.0200 to 4630.2210	151.090
Part 4630.2210	151.004
Chapter 7080	53.022
Chapter 7819	90.02
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Part 7819.1000	90.06
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Part 7819.1300	90.11
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Part 7819.3100	90.16
Part 7819.3200	90.18
Part 7819.4000	90.15
Part 7819.4100	90.15
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Part 7819.5100	90.16

## REFERENCES TO PRIOR CODE

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<i>Prior Code Section</i>	<i>Current Code Section</i>
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10.09	10.09
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10.11	10.11
10.12	10.12
10.13	10.13
10.14	10.14
10.15	10.15
10.16	10.16
10.17	10.17
10.18	10.18
10.19	10.19
10.99	10.99
30.01	30.01
30.02	30.02

30.03	30.03
30.04	30.04
30.05	30.05
30.06	30.06
30.07	30.07
30.08	30.08
30.09	30.09
31.02	31.02
32.001	32.001
32.002	32.002
32.003	32.003
32.015	32.015
32.016	32.016
32.017	32.017
32.018	32.018
32.019	32.019
32.035	32.030
32.036	32.031
32.037	32.032
32.038	32.033
32.039	32.034
32.040	32.035
32.041	32.036
32.042	32.037
32.043	32.038
32.044	32.039
32.045	32.040
32.046	32.041
32.047	32.042
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32.049	32.044
32.060	32.055
32.061	32.056
32.062	32.057
32.063	32.058
32.064	32.059
32.075	32.070
32.076	32.071
32.077	32.072
32.078	32.073
32.090	32.085
32.091	32.086
32.092	32.087
32.105	32.100
32.106	32.101
32.107	32.102
32.108	32.103
32.109	32.104
32.110	32.105
32.111	32.999
33.01	33.01
33.02	33.02

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34.02	34.02
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52.24	52.19
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52.27	52.22
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53.03	53.003
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53.41	53.046
53.42	53.047
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53.62	53.067
53.63	53.068
53.64	53.069
53.65	53.070
53.66	53.071
53.67	53.072
53.80	53.085
53.81	53.086
53.82	53.087
53.83	53.088
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130.03	130.03, 130.99
130.04	130.04
130.05	130.05
130.99	130.99
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151.003	151.003
151.004	151.004
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151.018	151.023
151.019	151.024
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151.033	151.038
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151.035	151.040
151.036	151.041
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151.038	151.043
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151.059	151.064

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151.061	151.066
151.062	151.067
151.063	151.068
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151.076	151.081
151.077	151.082
151.078	151.083
151.079	151.084
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151.081	151.086
151.082	151.087
151.083	151.088
151.084	151.089
151.085	151.090
151.086	151.091
151.095	151.105
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151.098	151.108
151.099	151.109
151.100	151.110
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151.123	151.133
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151.125	151.135
151.126	151.136
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151.128	151.138
151.129	151.139
151.130	151.140
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**REFERENCES TO RESOLUTIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
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## REFERENCES TO ORDINANCES

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115	9-13-1955	TSO Table I
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