

CITY OF SPICER, MINNESOTA

CODE OF ORDINANCES

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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 “Spicer 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

§ 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 the city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

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§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, 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 Spicer, 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. The County of Kandiyohi, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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STATE. The State of Minnesota.

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

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

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 SEVERABILITY.

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES.

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

§ 10.09 ERRORS AND OMISSIONS.

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

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

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§ 10.10 OFFICIAL TIME.

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

§ 10.11 REASONABLE TIME.

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

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

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§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

§ 10.18 COPIES OF CODE.

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

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

(A) It is the intention of the City Council that, when adopting this code of ordinances, 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.

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

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer licensed in the state shall have the authority to enforce any provision of this code.

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

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

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

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

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

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20 of this chapter, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. Such resolution may not proscribe administrative penalties for traffic offenses designated by M.S. § 169.999, as it may be amended from time to time.

(B) These administrative penalty procedures in 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 provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the City Council. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) In the discretion of the peace officer, City Clerk or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Treasurer within 14 days of the notice of the violation. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

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(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

(F) At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the city, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the city, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the city for the alleged violation.

§ 10.99 GENERAL PENALTY AND ENFORCEMENT.

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

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

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

(E) In addition to any penalties provided for in this section or in § 10.98 of this chapter, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

TITLE III: ADMINISTRATION

Chapter

30. GENERAL PROVISIONS

31. ORGANIZATIONS

32. EMERGENCY MANAGEMENT

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- 30.11 Fees and charges
- 30.12 Application of state laws
- 30.13 Background information

§ 30.01 CITY COUNCIL MEETINGS.

(A) *Regular meetings.* Regular meetings of the City Council shall be held at least once each month, at a date, time and place as established by the City Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special and adjourned meetings, shall be held in the City Hall unless the City Council decides otherwise at a prior meeting, or meeting in the City Hall is impossible.

General Provisions

(B) *Special meetings.* The Mayor or any two members of the City Council may call a special meeting of the City Council upon at least 24 hours' written notice to each member of the City 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. Pursuant to M.S. Ch. 13D, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day.

(C) *Emergency meetings.* Notice of emergency meetings shall be given as required by M.S. Ch. 13D, as it may be amended from time to time. An **EMERGENCY MEETING** is a meeting defined by M.S. Ch. 13D, as it may be amended from time to time.

(D) *Initial meeting.* At the first regular City Council meeting in January of each year, the City 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 qualifies;
- (4) Appoint officers and employees and members of departments, boards, commissions and committees as may be necessary; and
- (5) Establish and appoint Council members to those City Council committees as are deemed appropriate for the efficient and orderly management of the city.

(E) *Public meetings.* All City Council meetings, including special, emergency and adjourned meetings and meetings of City Council committees, as well as meetings of city commissions and boards, shall be conducted in accordance with the state's Open Meeting Law, M.S. Ch. 13D, as it may be amended from time to time.

§ 30.02 PRESIDING OFFICER.

(A) *Who presides.* The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the City Clerk 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 any rules of procedure adopted by the City Council, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order.

General Provisions

(C) *Appeal procedure.* Any member may appeal to the City Council 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 the 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, including the presiding officer.

§ 30.03 MINUTES.

(A) *Generally.* Minutes of each City Council meeting shall be kept by the City Clerk or, in the City Clerk's absence, by the Deputy City Clerk. In the absence of both, 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 City Clerk 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 City Clerk, and copies thereof shall be delivered to each Council member as soon as practicable after the meeting. At the next regular City Council meeting following the delivery, approval of the minutes shall be considered by the City 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 City Council. If there is an objection, the City Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

§ 30.04 ORDER OF BUSINESS.

(A) *Order established.* Each meeting of the City Council shall convene at the time and place appointed therefor. City Council business shall be conducted in the following order unless varied by the presiding officer or bylaws or other procedures adopted by Council resolution:

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

General Provisions

(10)New business;

(11)Miscellaneous; and

(12)Adjournment.

(B) *Petitions and agenda.* Petitions and other papers addressed to the City Council shall be read or copies distributed by the City Clerk upon presentation of the same to the City Council. All persons desiring to present new business before the City Council shall inform the City Clerk thereof at least 72 hours before new business is to be heard. The City Clerk may prepare an agenda of the new business for submission to the City Council on or before the time of the next regular meeting.

§ 30.05 VOTING.

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

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

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

(B) *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.

§ 30.07 SUSPENSION OR AMENDMENT OF RULES.

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

§ 30.08 COMPENSATION OF MAYOR AND COUNCIL MEMBERS.

The compensation of the Mayor and the compensation of each Council member shall be established from time to time by City Council ordinance pursuant to M.S. § 415.11, as it may be amended from time to time.

General Provisions

§ 30.09 COMPENSATION OF OFFICERS AND EMPLOYEES.

Officers and employees of the city shall be compensated at a rate as established from time to time by the City Council.

§ 30.10 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall consist of a majority of the entire City Council, including the Mayor. A quorum shall be necessary to transact the business of the City Council.

(B) If no quorum is present, the City Council shall not thereby stand adjourned, but the members present shall adjourn or recess the City Council by a majority vote of those present.

§ 30.11 FEES AND CHARGES.

The City Council may enact an ordinance establishing those fees and charges that are authorized by this code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the ordinance establishing fees and charges may be amended from time to time by amendment of that ordinance.

§ 30.12 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.

§ 30.13 BACKGROUND INFORMATION.

(A) *Applicants for city employment.*

(1) *Purpose.* The purpose and intent of this division (A) 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 in division (A)(2) below.

(2) *Criminal history employment background investigations.*

(a) Pursuant to M.S. § 364.021, as it may be amended from time to time, with the exception of the applicants for employment listed in M.S. § 364.09, as it may be amended from time to time, the city shall not inquire into or consider the criminal record or history of an applicant for public employment until the applicant has been selected for an interview by the city or, if there is not an interview, before a conditional offer of employment is made to the applicant.

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(b) The City Police Department or County Sheriff's 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; and

2. 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 or County Sheriff's 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 or County Sheriff's Department to the hiring authority, including the City Council, the City Clerk or other city staff involved in the hiring process.

(3) *Authorization.* Before the investigation is undertaken, the applicant must authorize the Police Department or County Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, 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, as it may be amended from time to time;

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

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

(B) *Applicants for city licenses.*

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

(2) The Police Department or County Sheriff's Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants and their employees for the following licenses or permits within the city: city licenses: liquor licenses, under Ch. 112 of this code of ordinances and any applicants under Ch. 113, 115, 116 or 118 of this code of ordinances.

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(3) In conducting the criminal history background investigation in order to screen license or permit applicants, the Police Department or Sheriff 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 or Sheriff's 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 Clerk or other city staff involved in the license approval process.

(4) Before the investigation is undertaken, the applicant must authorize the Police Department or Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, 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:

- (a) The grounds and reasons for the denial;
- (b) The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;
- (c) The earliest date the applicant may reapply for the license; and
- (d) All competent evidence of rehabilitation will be considered upon reapplication.

CHAPTER 31: ORGANIZATIONS

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POLICE DEPARTMENT

§ 31.01 POLICE DEPARTMENT CONTINUED.

(A) If the city has a Police Department at the time this code is adopted, then the Department of the city is hereby continued. If the city does not have a Police Department at the time of the adoption of this code, then at any time after the code is adopted, the City Council may, by resolution, create a Police Department, which shall be organized and administered as provided for by this code. The City Council may at any time determine by resolution to discontinue the existence of a Police Department and provide for the enforcement of state laws and city ordinances by other means. The head of the Police Department shall be known as the Chief of Police and the number of additional members of the Police Department, together with their ranks and titles, shall be determined by the City Council by resolution. The compensation to be paid to members of the Police Department shall be fixed by the City Council. Members of the Police Department shall be appointed by the City Council.

(B) All police officers shall meet the minimum standards for licensing as a peace officer as established by the state's Peace Officers Standards and Training Board and have a current and valid peace officer license at the time of appointment. All police officers shall retain this license during their employment as a police officer with the city and will be subject to discharge if the license is suspended, revoked or becomes invalid for any reason. In addition, all police officers must have a valid Minnesota vehicle operator's license and must be insurable as a vehicle driver by the city's automobile insurance carrier.

§ 31.02 CHIEF OF POLICE.

The Chief of Police shall have supervision and control of the Police Department and its members. The Chief of Police shall be responsible for the proper training and discipline of the members of the Police Department. The Chief of Police shall be responsible for the keeping of adequate records and shall report to the City Council on the needs of the Police Department and its work. Every member of the Police Department is subordinate to the Chief of Police and shall obey the instructions of the Chief of Police and any superior officer. The City Council may designate one of the police officers as Acting Chief, who shall have all the powers and duties of the Chief of Police during the absence or disability of the Chief of Police.

§ 31.03 DUTIES OF POLICE.

Members of the Police Department are authorized to enforce the laws applicable to the city, bring violators before the court and make complaints for offenses coming to their knowledge. Members of the Police Department are authorized to serve processes on behalf of the city and shall serve those notices as may be required by the City Council or other authority. 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. All fees shall be paid into the city treasury.

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§ 31.04 UNIFORM AND BADGE.

Each member of the Police 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 membership in the Police Department, the member shall immediately deliver to the city the badge, uniform and all other property of the city.

§ 31.05 RESERVE OFFICERS.

(A) The Chief of Police may appoint, for a specified time, as many reserve officers as may be necessary. Reserve officers shall be subordinate to the Chief of Police. Under the provisions of M.S. § 626.84, subd. 1(e), as it may be amended from time to time, a **RESERVE OFFICER** is an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control and administrative or clerical assistance. A reserve officer's duties shall not include enforcement of the general criminal laws of the state and the reserve officer does not have full powers of arrest or authorization to carry a firearm on duty.

(B) The Chief of Police, or City Council if there is no Police Chief, may appoint, for a specified time, as many parking enforcement officers pursuant to M.S. § 168B.035, subd. 2, as it may be amended from time to time, as may be necessary. The parking enforcement officers shall be subordinate to the Chief of Police, if there is one, or the City Clerk. A **PARKING ENFORCEMENT OFFICER** is an individual whose services are utilized by a law enforcement agency to provide parking enforcement and administrative or clerical assistance. A parking enforcement officer's duties shall not include enforcement of the general criminal laws of the state, and the parking enforcement officer does not have full powers of arrest or authorization to carry a firearm on duty.

FIRE DEPARTMENT

§ 31.20 FIRE DEPARTMENT; APPOINTMENT OF OFFICERS.

(A) If, at the time of the adoption of this code, the city has a Fire Department, there is continued in this city a Fire Department. If the city, at the time of the adoption of this code, does not have a Fire Department, the City Council may by resolution create a Fire Department subject to the provisions of this code. All Fire Departments are established under the authority of state law, M.S. § 412.221, subd. 17, as it may be amended from time to time.

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(B) All officers of the Fire Department shall be appointed by the City Council. If one of the officers duly appointed shall resign his or her office, be removed from office by the City Council, or is deceased during his or her term of office, the successor shall be duly appointed by the City Council as soon as is practical and no later than two weeks from the time the position becomes open. The officer so appointed is so appointed for any period of the unexpired term of the vacated office.

(C) Firefighters and probationary firefighters shall be appointed by the City Council upon recommendation by the Chief of the Fire Department. The process of recruitment, selection, appointment and termination of firefighters and probationary firefighters shall be at the discretion of the City Council.

(D) As required by state law, M.S. § 412.241, as it may be amended from time to time, the City Council shall have full authority over the financial affairs of the Fire Department, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts and the safekeeping and disbursement of public money. This division (D) does not apply to the funds of any Fire Relief Association.

§ 31.21 DUTIES OF CHIEF.

(A) The Chief shall have control of all firefighting apparatus and shall be responsible for its care and condition.

(B) The Chief shall make a report semi-annually to the City Council at its meeting in March and in September as to the condition of the equipment and needs of the Fire Department.

(C) The Chief may submit additional reports and recommendations at any meeting of the City Council, and he or she shall report each suspension by him or her of a member of the Fire Department at the first meeting of the City Council following the suspension.

(D) 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 City Council on his or her discharge or retention.

§ 31.22 RECORDS.

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

(B) The record shall include the time of the alarm, location of fire, cause of fire, if known, type of building, name of owner or tenant, purpose for which occupied, value of building and contents, members of the Fire Department responding to the alarm and other information as he or she may deem advisable or as may be required from time to time by the City Council or state law or regulation.

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§ 31.23 PRACTICE DRILLS.

It shall be the duty of the Chief, when the weather permits, to hold practice drills for the Fire Department and to give the firefighters instruction in approved methods of firefighting and fire prevention.

§ 31.24 ASSISTANT CHIEF.

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

§ 31.25 FIREFIGHTERS.

(A) Firefighters shall not be less than 18 years of age and able bodied.

(B) They shall become members of the Fire Department only after a 12-month probationary period.

(C) The City Council may require that each candidate, before he or she may become a probationary firefighter, must possess certain minimum height, weight, education, mental and physical health requirements and any other qualifications which may be specified by the City Council.

§ 31.26 COMPENSATION.

The members and officers of the Fire Department shall receive compensation as provided by the City Council.

§ 31.27 INTERFERENCE WITH FIRE DEPARTMENT.

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause, or to neglect or refuse to obey any reasonable order of the Chief or other firefighter at a fire, or to interfere with the Fire Department in the discharge of its duties.

Penalty, see § 10.99

§ 31.28 POLICIES AND PROCEDURES.

(A) The Fire Department may adopt policies and procedures for the operation of the Department, which shall be effective upon approval by the City Council.

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(B) Any provision of these policies and procedures, which may be called a Constitution and Bylaws, which is inconsistent with state and federal law, including the Veterans Preference Act, the state's Human Rights Act and state laws requiring the City Council to control Fire Department finances, shall be unenforceable and void.

PLANNING COMMISSION

§ 31.40 ESTABLISHMENT OF THE PLANNING COMMISSION.

If, at the time this code is adopted, the city has a Planning Commission, the Planning Commission for the city is hereby continued. If the city did not have a Planning Commission at the time of the adoption of this code, the City Council may at any time determine to establish a Planning Commission by appointing members to the Planning Commission as provided in § 31.41 of this chapter. To the extent that any provisions of this subchapter are inconsistent with any provisions of Title XV of this code of ordinances, the provisions of that title shall prevail. The Planning Commission shall be the city planning agency authorized by M.S. § 462.354(1), as it may be amended from time to time.

§ 31.41 COMPOSITION.

(A) The Planning Commission shall consist of seven members from the resident population of the city to be appointed by the Mayor with approval of the City Council. The appointees shall be appointed to serve staggered terms of three years, except as noted below, commencing on January 1 in the year of appointment. Upon expiration of a term, the appointee shall continue until reappointed or a successor is appointed. Absences from any three meetings in a year, unless excused in advance by the Chair, constitutes a vacancy. In the event of any vacancy, the City Council, shall appoint a person to complete the unexpired term.

(B) One member may be a Council member or the City Clerk, to be appointed by the City Council. This member shall serve for a one year term, to expire on December 31 of each year.

(C) Other persons may serve in an ex officio capacity as the City Council may, in its discretion, deem appropriate.

(D) Each of the regular Planning Commission members shall have equal voting privileges. Any member may be removed for cause, by majority vote of the City Council, upon written charge and after a public hearing.

(Prior Code, § 171.01)

§ 31.42 ORGANIZATION, MEETINGS, MINUTES AND EXPENDITURES.

(A) At the first regular meeting in January, the Planning Commission shall elect a Chairperson, a Vice-Chairperson and a Secretary from among its appointed members, each for a term of one year. The Planning Commission may create and fill other offices as it may determine is necessary.

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(B) The Planning Commission shall hold at least one meeting each month at the time and place as it may fix by resolution. Special meetings may be called at any time by the Chairperson or, in the case of the Chairperson's absence, by the Vice-Chairperson.

(C) Written minutes of meetings shall be kept and filed with the City Clerk prior to the next regularly scheduled City Council meeting, but shall be subject to the approval at the next Planning Commission meeting.

(D) No expenditures by the Planning Commission shall be made unless and until authorized for the purpose by the City Council.

§ 31.43 POWERS AND DUTIES; COMPREHENSIVE PLAN.

(A) *Generally.* The Planning Commission shall have the powers and duties given to city planning agencies generally by law, including the authority to conduct public hearings as directed by the City Council or city policy. The Planning Commission shall also exercise the duties conferred upon it by this code. It shall be the purpose of the Planning Commission to prepare and adopt a comprehensive plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the city. This plan may be prepared in sections, each of which shall relate to a comprehensive plan program. After the City Council has adopted the comprehensive plan, the Planning Commission shall periodically, but at least every five years, review the comprehensive plan and any ordinances or programs implementing the plan.

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

(C) *Zoning ordinance.* Pursuant to M.S. § 462.357, subd. 4, as it may be amended from time to time, the Planning Commission shall review all proposed amendments to the zoning ordinance, conduct public hearings as directed by the City Council or city policy, and make recommendations to the City Council concerning zoning ordinance amendments and their relation to the city comprehensive plan and other land use controls. The Planning Commission shall report recommendations to the City Council for action.

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

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

(F) *Subdivision regulations.* The Planning Commission may make recommendations in relation to the subdividing of land as prescribed by the ordinance and may conduct public hearings as directed by the City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.

(G) *Variances.* All applications for variances may be referred to the Planning Commission which may conduct public hearings as directed by the City Council or city policy, and forwarded with or without recommendations directly to the City Council, which shall have the powers of a Board of Appeals and Adjustments as provided for in M.S. § 462.357, subd. 6, as it may be amended from time to time for its decision.

(H) *Official map.* Pursuant to M.S. § 462.359, subd. 2, as it may be amended from time to time, after adoption of a major thoroughfare plan and community facilities plan (which may be contained in the city comprehensive plan or adopted separately), the Planning Commission, for the purpose of carrying out the policies of the major thoroughfare plan and community facilities plan, may prepare and recommend to the governing body a proposed official map covering the entire municipality or any portion thereof. The official map or maps shall be prepared in sufficient detail to permit establishment of the future acquisition lines on the ground. In unplatted areas, a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed surveyor.

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

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

CHAPTER 32: EMERGENCY MANAGEMENT

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- 32.01 Policy and purpose
- 32.02 Definitions
- 32.03 Establishment of emergency management organization
- 32.04 Powers and duties of Director
- 32.05 Local emergencies
- 32.06 Emergency regulations
- 32.07 Emergency management a government function
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§ 32.01 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 the 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 the 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 the 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.

Emergency Management

§ 32.02 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.

§ 32.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the city's Emergency Management Director, called the Director. The Director shall be appointed by the City Council for an indefinite term and may be removed by the Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Council. The emergency management organization shall conform to and be consistent with, where applicable, all state and federal requirements, including the National Incident Management System framework found at 44 C.F.R. part 201, as it may be amended from time to time.

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§ 32.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director 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's 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's and the city's 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's Emergency Plan when a disaster occurs.

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

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

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting

Emergency Management

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.

§ 32.05 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 Clerk.

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

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

Penalty, see § 32.99

§ 32.06 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 Clerk. 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 Clerk'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

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

Penalty, see § 32.99

§ 32.07 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 or she 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.

§ 32.08 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.

§ 32.99 PENALTY.

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

CHAPTER 33: FINANCE AND REVENUE; TAXATION

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Finance and Revenue; Taxation***GENERAL PROVISIONS*****§ 33.01 PERMANENT CARE AND IMPROVEMENT FUND FOR CEMETERY.****(A) *Establishment.***

(1) A permanent care and improvement fund is hereby established as a separate fund for use in maintaining, caring for and improving the cemetery and cemetery lots in the city cemetery designated as the Spicer Cemetery.

(2) All funds received for deposit to the credit of this fund shall be kept, managed and administered by the city as provided by M.S. Ch. 306, as it may be amended from time to time, and this section.

(B) *Fees and donations.* The owner of any lot in the Spicer Cemetery desiring permanent care for such lot, or any person desiring to make a gift or donation for permanent care of any lot or lots, for the care and beautifying of the cemetery, may secure such care without further expense by paying to the city the amount shown on the schedule filed with the City Administrator. All future purchases of lots or graves shall have included in their purchase price the cost of compulsory perpetual care.

(C) *Payments to separate city fund.* Subject to any disposition otherwise authorized by M.S. Ch. 306, as it may be amended from time to time, all sums credited to the permanent care and improvement fund shall be held in a separate City Cemetery Permanent Care and Improvement Account. At the time such payment is made, a statement shall be prepared by the City Administrator setting forth:

(1) The amount received from each lot owner or the amount of each gift or donation for permanent care and maintenance;

(2) The name of the lot owner and the name of the donor of each gift; and

(3) A description of each lot that is to be cared for with a payment, in accordance with division (B) above.

(D) *Use of permanent care funds.*

(1) Subject to any disposition otherwise authorized by M.S. Ch. 306, as it may be amended from time to time, all income received by the city for permanent care from the cemetery funds shall be used solely for the purpose of defraying the cost of caring for, maintaining and improving the cemetery lots for which permanent care has been provided.

(2) Any income so received in excess of amount necessary to pay for the care of beautifying the lot or any income not spent in any year for this purpose shall be held in a separate city account.

(E) *Cemetery Board.* The City Council shall establish a Cemetery Board whose members shall adopt rules and regulations for the operation and maintenance of the Spicer Cemetery. The Council shall appoint no less than three, nor more than seven, members to the Cemetery Board, for three-year terms.

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(F) *Rules and regulations.* The Cemetery Board shall, with the Mayor's approval, establish rules and regulations for the operation and maintenance of the Spicer Cemetery. The rules shall be posted at the entrance to the cemetery and a copy shall be maintained by the City Administrator for public viewing. (Prior Code, § 171.10) (Ord. 59, passed 2-22-1973; Ord. 174.03, passed 9-20-2011)

§ 33.02 LODGING TAX.

(A) Pursuant to M.S. § 469.190, as it may be amended from time to time, the City Council is authorized to adopt this section imposing a lodging tax.

(B) There is hereby imposed a lodging tax applicable to all hotels, motels, inns, resorts, bed and breakfast establishments, rooming houses, tourist courts, camps and other lodging facilities not exempt from this section.

(C) The following shall be exempt from the application of this section:

(1) Hotels, motels, inns, resorts, bed and breakfast establishments, rooming houses, tourist courts, camps and other lodging facilities which operate on a seasonal basis only, whereby the number of months of operation does not exceed nine months per calendar year; and

(2) Hotels, motels, inns, resorts, bed and breakfast establishments, rooming houses, tourist courts, camps and other lodging facilities where the leasing or renting is for a continuous period of 30 days or more by the same leasing or renting person(s).

(D) The amount of the lodging tax established by this section shall be 3% of the fee charged by an operator for providing lodging to any person(s).

(E) (1) Ninety-five percent of the gross proceeds obtained from the tax imposed by this section shall be used to fund a local convention or tourism bureau for the purpose of marketing and promoting the city as a tourist or convention center.

(2) Five percent of the gross proceeds obtained from the tax imposed by this section shall be used for costs of collection or such other purpose in accordance with M.S. § 469.190, as it may be amended from time to time, as may be deemed appropriate by the City Council.

(F) The lodging tax funds shall be accounted for on a monthly basis, and shall be submitted to the City Treasurer on or before the twentieth day of the following month. (Ord. 2-2000, passed 1-19-2000)

Finance and Revenue; Taxation***FIRE PROTECTION AND EMERGENCY SERVICE FEES*****§ 33.15 PURPOSES AND INTENT.**

This subchapter is adopted for the purpose of authorizing the city to charge for emergency services as authorized by M.S. §§ 366.011, 366.012 and 415.01, as they may be amended from time to time. The intent is to recover costs for services rendered to all parties, so that city residents and parties contracting with the city are not subsidizing the provision of fire services.

(Ord. 171.20, passed 5-15-2012)

§ 33.16 DEFINITIONS.

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

DEPARTMENT. The City of Spicer Fire Department.

DEPLOYMENT. The dispatch of the Department firefighting personnel or equipment from the city's Fire Hall.

FALSE ALARM. A request for Fire and Emergency Services, when a fire, medical situation or Motor Vehicle accident does not exist. The malfunction of an electronic alarm is not a ***FALSE ALARM.***

FIRE AND EMERGENCY SERVICES. Any deployment of the Department's firefighting personnel or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life or property in an area threatened by fire, or to provide fire suppression, rescue, extrication, medical and any other services related to fire and rescue as may occasionally occur.

FIRE PROTECTION CONTRACT. A contract between the city and a township, which provides for the provision of fire and emergency services, including payment by the township.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks, including semi-trailers, but not including snowmobiles, manufactured homes, all-terrain vehicles or park trailers.

MUTUAL AID AGREEMENT. An agreement between the city and a town or other city for the city's fire department to provide assistance to the fire department of a town or other city.

SERVICE CHARGE. The charge imposed by the city for receiving fire and emergency services.
(Ord. 171.20, passed 5-15-2012)

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§ 33.17 PARTIES AFFECTED.

(A) All owners of property who receive fire and emergency services shall receive a service charge.

(B) Any individual who receives fire and emergency services as a result of a motor vehicle accident, fire, medical or rescue call.

(Ord. 171.20, passed 5-15-2012)

§ 33.18 RATES.

(A) Service charge rates are determined by the nature and extent of the fire and emergency services received. The classification of fire and emergency services rendered shall be determined by the Department Chief or the Chief's designee. For hourly charges, time will be calculated from when the First Department vehicle deploys, to the time the last Department vehicle leaves the scene.

(B) The city shall charge affected parties for emergency services rendered, including any consumables used in association with the provision of such services. Rates for said services shall be set forth in the city's fee schedule and shall be reviewed annually.

(Ord. 171.20, passed 5-15-2012)

§ 33.19 BILLING AND COLLECTION.

(A) A service charge is incurred upon deployment.

(B) Parties requesting or receiving fire and emergency services are billed directly by the city. Additionally, if the party receiving fire and emergency services did not request services, but a fire or other situation exists which, at the discretion of the Department Chief or the Chief's designee, requires fire and emergency services, the party will be charged and billed. All parties are billed whether or not the fire and emergency services are covered by insurance. Any billable amount of the service charge not covered by a party's insurance remains a debt of the party receiving the fire and emergency services.

(C) Parties billed for fire and emergency services have 30 days to pay. If the service charge is not paid by that time, it is considered delinquent and the city shall send a notice of delinquency.

(D) If the service charge remains unpaid for 30 days after the notice of delinquency is sent, the city may use all practical and reasonable legal means to collect the service charge. The party receiving fire and emergency services shall be liable for all collection costs incurred by the city including, but not limited to, reasonable attorney fees and court costs.

Finance and Revenue; Taxation

(E) If the service charge remains unpaid for 30 days after the notice of delinquency is sent, the city may also, on or before October 15 of each year, certify the unpaid service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes levied against the property. The County Auditor shall be responsible for remitting to the city all service charges collected on behalf of the city. The city must give the property owner written notice of its intent to certify the unpaid service charge to the Auditor by September 15. The service charge shall be subject to the same penalties, interest and other conditions provided for the collection of property taxes.

(F) A service charge shall be incurred for the deployment of the Department to assist in a mutual aid fire in accordance to the mutual aid agreement.

(G) False alarms will not be billed a service charge.
(Ord. 171.20, passed 5-15-2012)

§ 33.20 STATUS OF COLLECTED CHARGES.

All collected service charges will be city funds and used in the manner deemed appropriate by the City Council.
(Ord. 171.20, passed 5-15-2012)

SALES AND USE TAX

§ 33.35 AUTHORITY.

The state legislature has, by laws of Minnesota for 2017, 1st Special Session, Ch. 1, Art. 5, § 24, authorized the city to impose a 0.5% sales and use tax to pay the costs of collecting and administering the tax and to finance the capital and administrative costs of the projects identified in § 33.38 of this chapter. The Act was approved by the city in accordance with applicable law and by a majority of the voters at the 11-8-2016 general election.
(Ord. 170620-01, passed 6-20-2017)

§ 33.36 DEFINITIONS.

The words, terms and phrases used in this subchapter shall have the meaning ascribed to them in M.S. Ch. 297A, as it may be amended from time to time, except where the context clearly indicates otherwise. In addition, for the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. Laws of Minnesota for 2017, 1st Special Session, Ch. 1, Art. 5, § 24.

CITY. The City of Spicer.

Finance and Revenue; Taxation

COMMISSIONER. The Commissioner of Revenue for the state acting under the authority of an agreement entered into between the city and the state pursuant to the Act, or such other person or entity designated to administer and collect the sales and use tax.

ORDINANCE. This ordinance in its present form and as subsequently codified in the Spicer City Code.

RETAILER MAINTAINING A PLACE OF BUSINESS IN THE CITY. Any retailer having or maintaining within the city, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse or other place of business, or having any representative, agent, sales person, canvasser or solicitor operating in the city under authority of the retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installation or soliciting of order of the retailer's goods or services, or the leasing of tangible personal property located in the city, whether the place of business or agent, representative, salesperson, canvasser or solicitor is located in the city permanently or temporarily, or whether the retailer or subsidiary is authorized to do business within the city.

SALES AND USE TAX. The sales and use tax imposed and collected pursuant to this subchapter. (Ord. 170620-01, passed 6-20-2017)

§ 33.37 SALES AND USE TAX.

Except as otherwise provided in this subchapter, there is hereby imposed an additional excise tax in the amount of 0.5% on the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable pursuant to M.S. Ch. 297A, as it may be amended from time to time, and occur within the city. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of M.S. Ch. 297A, 289A and 270C, as they may be amended from time to time, and Minn. Rules Ch. 8130.

(Ord. 170620-01, passed 6-20-2017)

§ 33.38 PROCEEDS.

(A) The proceeds of the sales and use tax shall be used in the discretion of the City Council for the projects approved by the voters at the 11-8-2016 general election.

(B) The approved projects are:

(1) Pedestrian public safety improvements such as a pedestrian bridge or crosswalk signals at marked Trunk Highway 23;

(2) Park and trail capital improvements including signage for bicycle share the road improvements and replacement of playground an related facilities; and

(3) Capital improvement to regional community facilities, such as the Dethlefs roof and window replacement and the Pioneerland branch library roof replacement.

Finance and Revenue; Taxation

(C) All funds not used to pay collection and administrative costs of the sales and use tax must be used for the projects listed in division (B) above.

(Ord. 170620-01, passed 6-20-2017)

§ 33.39 BONDING AUTHORITY.

(A) In accordance with the authority provided by the Act, the city may issue bonds under M.S. Ch. 475, as it may be amended from time to time, to finance all or a portion of the costs of the facilities authorized by the Act and identified in § 33.38 of this chapter. The aggregate principal amount of bonds issued under this section may not exceed \$800,000, plus an amount to be applied to the payment of the costs of issuing the bonds. The bonds may be paid from or secured by any funds available to the city, including the sales and use tax authorized by the Act and this subchapter.

(B) The issuance of bonds under this section is not subject to M.S. §§ 275.60 and 275.61, as they may be amended from time to time.

(C) The bonds are not included in computing any debt limitation applicable to the city, and any levy of taxes under M.S. § 475.61, as it may be amended from time to time, to pay principal and interest on the bonds is not subject to any levy limitation. A separate election to approve the bonds under M.S. § 475.58, as it may be amended from time to time, is not required.

(Ord. 170620-01, passed 6-20-2017)

§ 33.40 SEPARATE STATEMENT; COLLECTION FROM PURCHASER; ADVERTISING NO TAX; MINIMUM UNIFORM TAX COLLECTION METHODS.

The sales and use tax shall be stated and charged separately from the sales price or charge for service insofar as practical, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of any transaction, any amount of tax less than 0.54 may be disregarded and amounts of tax 0.54 or more may be considered an additional cent. If the sales price of any sale at retail is 0.994 or less, no tax shall be collected.

(Ord. 170620-01, passed 6-20-2017)

§ 33.41 EXEMPTION CERTIFICATES.

An exemption certificate taken in good faith from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from application of the sales and use tax will conclusively relieve the retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to M.S. Ch. 297A, as it may be amended from time to time, may use such exemption certificate for the purposes of the sales and use tax.

(Ord. 170620-01, passed 6-20-2017)

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§ 33.42 PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of § 33.37 of this chapter, it shall be presumed that all retail sales for delivery in the city are for storage, use or other consumption in the city until the contrary is established.

(Ord. 170620-01, passed 6-20-2017)

§ 33.43 COLLECTION OF SALES AND USE TAX AT THE TIME OF SALE.

(A) Any retailer making deliveries within the city, any retailer maintaining a place of business in the city or any other retailer otherwise doing business within the city, upon making sales or any items described in § 33.37 of this chapter, which are not exempted from the sales and use tax and which are to be delivered or caused to be delivered within the city to the purchaser, shall, at the time of making such sales, collect the sales and use tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the city.

(B) Any retailer required to collect the sales and use tax and remit such tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.

(Ord. 170620-01, passed 6-20-2017)

§ 33.44 AGENT RETAILER.

When, in the opinion of the Commissioner, it is necessary for the efficient administration of the sales and use tax, the Commissioner may regard any salesperson, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesperson, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a retailer for the purposes of this subchapter.

(Ord. 170620-01, passed 6-20-2017)

§ 33.45 EFFECTIVE DATE.

(A) Except as otherwise provided herein, the sales and use tax authorized by this subchapter began 10-1-2017 and applies to sales made on or after 10-1-2017 and shall be in addition to all other taxes now in effect.

(B) The sales and use tax imposed by this subchapter shall expire at the earlier of:

(1) Ten years after the sales and use tax is first imposed;

(2) December 31, 2027;

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(3) When the City Council determines that \$800,000, plus an amount sufficient to pay the costs related to issuing the bonds authorized by the Act and this subchapter, including interest on the bonds, has been received from the sales and use tax to pay for the cost of the projects identified in § 33.38 of this chapter; or

(4) At such earlier time the city determines by ordinance.
(Ord. 170620-01, passed 6-20-2017)

§ 33.46 COLLECTION AND ENFORCEMENT.

The sales and use tax imposed by the city pursuant to this subchapter shall be subject to the same interests, penalties and other rules as are applicable to the state general sales and use tax imposed by M.S. Ch. 270C, 289A and 297A, as they may be amended from time to time. The sales and use tax imposed by the city pursuant to this subchapter may be collected by the state on behalf of the city as provided by an appropriate agreement with the state's Commissioner of Revenue.

(Ord. 170620-01, passed 6-20-2017)

§ 33.47 TAX CLEARANCE ISSUANCE OF LICENSE.

(A) The city may not issue or renew a license for the conduct of a trade or business in the city if the Commissioner notifies the city that the applicant for such license owes delinquent sales and use taxes as provided in this subchapter or penalties or interest due on such taxes.

(B) For the purposes of this section, the following terms have the following meanings.

(1) The sales and use taxes include the 0.54 sales and use tax as provided in this subchapter. Penalties and interest are penalties and interest due on taxes included in this definition.

(2) Delinquent taxes does not include a tax liability if:

(a) There is a pending or ongoing administrative or court action in which the amount of or validity of a tax liability is contested;

(b) The appeal period to contest tax liability has not expired; or

(c) The applicant has entered into a payment agreement and is current with the payments.

(3) Applicant means an individual if the license is issued to or in the name of an individual or the corporation, partnership or other entity if the license is issued to or in the name of a corporation, partnership or other entity.

(C) A copy of the notice of delinquent taxes given to the city shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing within 30 days of the receipt

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of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in M.S. § 270.72, as it may be amended from time to time, for the state sales and use tax imposed under M.S. Ch. 297A, as it may be amended from time to time; provided that, if a hearing must be held on the state sales and use tax, the hearings may be combined.
(Ord. 170620-01, passed 6-20-2

CHAPTER 34: FEE SCHEDULE

Section

34.01 Fee schedule

§ 34.01 FEE SCHEDULE.

Pursuant to state law, and upon a review of a study conducted by city staff, a fee schedule for city services and licensing is hereby adopted, by an affirmative vote of a majority of the City Council members present.

CEMETERY	
Burial fee (per burial)	\$150
Individual burial site (per lot)	\$300
CITY BUILDINGS	
City Hall - Council Chamber	
Weekday rental (Monday - Friday, 7:00 a.m. - 5:00 p.m.)	\$50
Dethlefs Community Center	
Clubs, non-commercial purposes, tax-exempt organizations	\$50
Commercial, private citizens	\$100
Damage deposit	\$200
Use of full kitchen facilities	\$150
Exempt service organizations - veteran organizations, Boy and Girl Scouts, NL-S school	\$0
Fire Hall - meeting room	
Weekday rental (Monday - Friday, 7:00 a.m. - 5:00 p.m.)	\$50
CITY ORDINANCE FINES	
Attack by animal/dog bites (§ 91.11)	County Attorney
Basic care/cruelty to animals (§ 91.13)	\$100
Consumption of alcohol in public (§ 112.05)	\$120
Fireworks prohibited in public (§ 130.04)	\$50
Gathering in the park (Ord. 1.3)	\$100
Loud party/noisy gathering (Ord. 102)	\$50
No parking where posted (§ 71.01)	\$50

Public urination (§ 130.07)	\$50
Social host (§ 130.06)	\$50
Street parking after 2:00 a.m. November 1 through April 1 (§ 71.04)	\$50
Unreasonable acceleration (§ 70.08)	\$50
FIRE DEPARTMENT	
Controlled burn	\$60/acre
Fire calls	
1st hour	\$350
Each additional half-hour	\$125
Pool fills	
Administrative fee	\$20
Per 1,000 gallons	\$4.25
Per hour/per person	\$30
Per mile	\$2.50
GENERAL ADMINISTRATIVE FEES	
Agenda packet	\$.25 per sheet, plus postage
Annual budget documents	\$30
Assessment search	\$30
Copies	
1st page	\$1
Each additional page	\$.50
Duplicate license/permit (any type)	\$10
Duplicate meeting tapes/CD/digital	\$10 (per tape)
Election filing fee	\$5
Faxes	
1st page	\$1
Each additional page	\$.50
General administrative fine	\$75
Mileage reimbursement	At IRS rate
Municipal code book	\$.25 per page or \$100, whichever is less
NSF/closed accounts/stop payments	\$30

Research time for open records/public records request	\$40 (per hour after 30 minutes)
Special Council meeting	\$700
LAND USE FEES	
Application for development - escrowed	\$5,000
Required when a site plan is needed	
Escrow is collected at the time of concept or sketch plan is submitted to the city	
Park dedication fee	
Per housing unit or lot - paid by developer at the time of the final plat	\$1,000
Zoning	
Appeal	\$500 minimum plus additional costs
Comprehensive Plan - CD	\$10
Comprehensive Plan - color copy	\$35
Conditional Use Permit	\$500
Deposit required for all requests	\$500
Late application fee	\$50
Metes and bounds split or joining lots	\$500 (plus county recording fee)
Site plan review	Set by Building Official
Special exception use	\$500
Special meeting	\$500
Subdivision final review	No charge
Subdivision hearing and subsequent hearing with new notice	\$200
Subdivision preliminary plat (for up to 5 lots)	\$500
For every lot of 5	\$25
Variance	\$500
Zoning amendment/rezoning	\$500
LICENSES AND PERMIT	
Adult entertainment	
Application fee	\$5,000
Annual license fee	\$10,000
Animal control	
Dog and cat license (January 1 annually)	\$5

Impound fee	Set by Humane Society
Banner temporary permit (service organizations exempt)	\$25
Building permits (new construction, additions, remodels, commercial, mechanical)	Based on valuation
Burning permits required in the city (can only burn brush and leaves; not needed if there is 3" of snow cover)	No charge
Conduct business on a public sidewalk	\$25
Demolition permit	\$50
Dock rental	
Commercial (annually)	\$1,100
Residential - non-resident (annually)	\$1,300
Residential - Spicer resident	\$1,100
Electric hook-up charge (Saulsbury Beach and Flee Market)	\$50/day
Fence permit	\$50
Gambling	
Investigation fee	\$100
Permit fee (annually)	\$100
Temporary permit (daily)	\$25
Handicap golf cart or 4-wheel ATV (annually)	\$20
Late building or demolition permit ADDITIONAL STATE SURCHARGE FEES MAY APPLY	Double fee
Liquor licenses	
Club license August 1 annually	\$100
Hotel on/off sale liquor August 1 annually	\$500
Off-sale 3.2% beer January 1 annually	\$50
Off-sale liquor August 1 annually	\$100
On-sale 3.2% beer January 1 annually	\$50
On-sale liquor August 1 annually	\$2,500
On-sale Sunday liquor August 1 annually	\$200
On-sale wine (w/strong beer August 1 annually)	\$200
Right-of-way excavation	\$50
Sanitation contractor's license (October 1 annually)	\$25

Shoreland alteration permit	\$100
Sign permit	\$50
Sign permit over 30§	\$100
Special activities	
3.2% beer, fireworks, vendors, outside public address (per event)	\$25
Pedal pub license (daily)	\$25
Temporary sign permit	\$25
Vendor permit (exempt from permit: Boy Scouts, Girl Scouts, non-profit organizations and church organizations)	
Daily	\$25
Seasonal	\$250
MISCELLANEOUS	
Certifying unpaid charges to property tax roll	Assessor fee plus 15% admin fee
Mowing (minimum charge per hour, includes labor)	\$100
PARK RENTAL	
Exempt service organizations - veteran organizations, Boy and Girl Scouts, NL-S school	
Gazebo - Pirrotta Park	\$35
Lions Shelter - Pirrotta Park	\$40
Observation Deck - Pirrotta Park	\$60
Westside Park Shelter	\$35
PUBLIC WORKS	
Call out for Public Works personnel - after hours	
1st hour/person	\$125
After 1st hour/person	\$75
Loader (including labor)	\$200/hour
WATER AND SEWER RATES	
Accessibility charges - developers	
Sewer (SAC)	\$1,000 (per developable acre)
Water (WAC)	\$1,000 (per developable acre)
Connection fees - all new construction - owner responsibility	
GLSSWD hook up	\$1,000

Meter and transmitter (plus tax)	
5/8" meter and radio	Cost plus 15% admin
3/4" meter and radio	Cost plus 15% admin
1" or larger meter is special order plus transmitter	Cost plus 15% admin
Copper horn - 3/4" with 2 swivels	Cost plus 15% admin
Curb box - 1"	Cost plus 15% admin
Lawn meter - 5/8" meter and radio	Cost plus 15% admin
Sewer	\$750
Water	\$750
Water and sewer rates	
Bulk water	
Base fee	\$52.50
Per 1,000 gallons	\$4.41
Late fee if not paid by the 20th	10%
Minimum water test fee	Fee set by the State of Minnesota
Monthly base fees	
Sewer commercial	\$54.60
Sewer residential	\$38.35
Water commercial	\$49.12
Water residential	\$32.80
Monthly usage charge per gallon	
Lawn meters	\$.00441/gallon
Sewer	\$.01031/gallon
Water summer rate	\$.00408/gallon
Water winter rate	\$.00355/gallon
Reconnect - 24-hour notice required	
After hours	\$125
Work hours	\$75

(Ord. 5-2005, passed 2005; Ord. passed 1-2-2020)

TITLE V: PUBLIC WORKS

Chapter

- 50. GARBAGE AND REFUSE**
- 51. SEWER REGULATIONS**
- 52. WATER REGULATIONS**
- 53. STORM WATER MANAGEMENT**
- 54. RATES AND CHARGES**

CHAPTER 50: GARBAGE AND REFUSE

Section

- 50.01 Effectiveness
- 50.02 Definitions
- 50.03 Sanitation collection service required
- 50.04 Container required; placement
- 50.05 Meddling with trash receptacles prohibited
- 50.06 Containers to be kept sanitary and secure
- 50.07 Unauthorized private collections prohibited
- 50.08 Sanitation service: city options
- 50.09 Removal of building materials
- 50.10 Prohibited acts
- 50.11 Non-residential customers; container types; collection schedules
- 50.12 Manner of collection and transportation
- 50.13 Licensing for collection
- 50.14 Collection of leaves, trees or tree limbs

Cross-reference:

Health and Safety; Nuisances, see Chapter 92

§ 50.01 EFFECTIVENESS.

The provisions of this chapter are not effective until the City Council has complied with the notice and hearing requirements of M.S. § 115A.94, as it may be amended from time to time.

Garbage and Refuse

§ 50.02 DEFINITIONS.

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

GARBAGE. Organic refuse resulting from the preparation of food, and decayed and spoiled food from any source.

RECYCLABLES. Tin cans, glass, paper, cardboard and plastic.

RUBBISH. All inorganic refuse matter such as tin cans, glass, paper, ashes and the like.
(Prior Code, § 172.01)

§ 50.03 SANITATION COLLECTION SERVICE REQUIRED.

Every person owning, managing, operating, leasing or renting any premises or any place where garbage or rubbish accumulates shall subscribe to a sanitation collection service, or should appropriately dispose of garbage, rubbish or recyclables.

(Prior Code, § 172.02) Penalty, see § 10.99

§ 50.04 CONTAINER REQUIRED; PLACEMENT.

(A) It shall be the duty of every person whose garbage and refuse is collected to provide a container or containers for garbage and refuse, sufficient in size and number to accommodate and securely keep all garbage and refuse that may accumulate between collections. Garbage containers shall be water-tight and constructed of a solid and durable grade of metal, plastic or paper material.

(B) It shall be the duty of every person whose garbage and refuse is collected by the sanitation collection service to place his or her garbage containers directly behind the curblin of the street abutting his or her property or, in the absence of a curb directly behind the ditch line, abutting his or her property. In no event shall containers be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic.

(Prior Code, § 172.03) Penalty, see § 10.99

§ 50.05 MEDDLING WITH TRASH RECEPTACLES PROHIBITED.

(A) It shall be unlawful to meddle with garbage cans, trash or rubbish receptacles or in any way pilfer, search or scatter contents of garbage cans or rubbish receptacles in or upon any street or alley within the city limits.

(B) This section shall not apply to persons authorized by the city or persons authorized by state or federal

Garbage and Refuse

law to search or otherwise meddle with trash receptacles.

Penalty, see § 10.99

§ 50.06 CONTAINERS TO BE KEPT SANITARY AND SECURE.

All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract or breed flies, mosquitoes or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the city. All containers shall be securely closed in a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents and other animals.

Penalty, see § 10.99

§ 50.07 UNAUTHORIZED PRIVATE COLLECTIONS PROHIBITED.

(A) It shall be unlawful for any person to transport garbage or refuse for hire which has been collected from any premises within the city over any public street within the city.

(B) This section shall not apply to any person who at the time of the activity is operating under a valid contract or franchise granted by the city which authorizes that person to use the public streets to conduct that activity.

Penalty, see § 10.99

§ 50.08 SANITATION SERVICE: CITY OPTIONS.

The City Council may provide for sanitation collection services within the city by use of city employees and vehicles, or it may grant licenses under the terms and conditions of § 50.13 of this chapter, or it may contract with one or more contractors for the provision of these services under the terms and conditions negotiated with the contractors; except that, the provisions for insurance under § 50.13(E) of this chapter shall always apply. Where the city provides for collection by use of city employees and city vehicles, the city shall establish a price structure consistent with § 50.13(I) of this chapter, except as provided by M.S. § 115A.9301, subd. 3, as it may be amended from time to time.

§ 50.09 REMOVAL OF BUILDING MATERIALS.

Waste from building operations, rock waste, building materials or other refuse resulting from building or remodeling operations or resulting from a general cleanup of vacant or improved property shall be removed by the building contractor, owner or occupant of the building at his or her own expense. It shall be unlawful for any person to place those materials in any dumpster or other trash receptacle for disposal by the city or any agent or contractor of the city.

Penalty, see § 10.99

Garbage and Refuse

§ 50.10 PROHIBITED ACTS.

(A) It shall be unlawful for any person to sweep, throw or deposit any garbage, trash, debris, stagnant water or dead animal into, upon or along any public property or private property of another, except as may be specifically provided by this chapter.

(B) It shall be unlawful for any person owning or otherwise in control of any premises within the city to permit any of the conditions described in division (A) above to exist upon property owned or controlled by him or her after having actual or constructive notice thereof.

(C) It shall be unlawful for any person to place in any container any material other than as specifically provided in this chapter.

(D) It shall be unlawful for any person to deposit or maintain garbage or trash, except as provided for by this chapter.

(E) It shall be unlawful for any person to deposit any burning match, charcoal, ember or other material in any container used for the disposal of garbage.

Penalty, see § 10.99

§ 50.11 NON-RESIDENTIAL CUSTOMERS; CONTAINER TYPES; COLLECTION SCHEDULES.

(A) It shall be the duty of the owner or person otherwise in charge of multi-family, institutional or industrial premises within the city to cause all garbage and trash accumulated on the premises to be placed in disposable containers or commercial-type containers. Commercial-type containers may be used and may be placed at a location on the premises as arranged between the customer and the collector, but subject to review by the city at any time.

(B) Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.

(C) The amount and character of garbage shall be considered in establishing size of commercial containers and frequency of pickup. The city shall have final authority to establish the size and frequency based on the history of amount and type of garbage generated by the customer. The collection and removal of garbage and trash from premises used for commercial, institutional or industrial purposes shall be made as often as necessary in order to maintain the premises free of accumulations. Garbage, except dry trash in contractor-supplied containers, shall be collected not less than one time each week, except for roll-off containers which shall not be subject to this provision so long as they are used solely for brush and dry trash.

Penalty, see § 10.99

§ 50.12 MANNER OF COLLECTION AND TRANSPORTATION.

(A) The collection, removal and disposal of all garbage, trash and brush shall be carried on in a systematic, efficient manner to keep the city in a clean and sanitary condition.

Garbage and Refuse

(B) All vehicles used for the collection and transportation of garbage and trash shall be equipped with suitable covers which shall be used to prevent blowing or scattering of refuse while garbage and trash are being transported for disposal.

Penalty, see § 10.99

§ 50.13 LICENSING FOR COLLECTION.

(A) *Purpose.* In order to provide for a continuous system of refuse collection and disposal in a manner which meets the needs and conveniences of the residents of the city and in order to protect the area from the problems of uncoordinated, unsanitary and improper solid waste disposal, the City Council may determine that it is in the best interests of the residents of the city to require licenses of persons collecting or hauling garbage and rubbish for hire, reserving to the city the right and authority to contract with one or more operators to provide these services.

(B) *Licensing.*

(1) No person may collect or haul garbage or rubbish within the city without first obtaining a written license from the City Council.

(2) An application for a license shall be submitted in writing to the City Clerk and shall contain the following information:

(a) Name and address of the applicant;

(b) Description of the equipment which will be used within the city by the applicant;

(c) A schedule of the rate that will be charged by the applicant for the various categories of customers within the city; and

(d) Evidence of compliance with the other applicable sections of this chapter.

(C) *Franchise.* The City Council may exercise its reserved right to contract with one or more operators for the collection of garbage and rubbish within the city.

(D) *Suspension of license or contract.* A contract or license issued under the provisions of this section may be revoked or suspended for a violation of this chapter or other applicable regulations of law upon a showing that the contractor or licensee has failed to comply with that regulation.

Garbage and Refuse

(E) *Financial responsibility.*

(1) The licensee or contractor shall be required to procure:

(a) Commercial general liability insurance in the minimum amount of \$2,000,000 per occurrence;

(b) Automobile liability insurance with a minimum combined single limit of \$2,000,000 for bodily injury and property damage, including coverage for owned, hired and non-owned automobiles; and

(c) Workers' compensation insurance for all employees in accordance with the statutory requirements in the state.

(2) The licensee or contractor shall hold the city harmless and agrees 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 license or contract. The city shall be named as an additional insured on the commercial general liability insurance for the services provided under the license or contract. The licensee's or contractor's insurance shall be the primary insurance for the city and the licensee or contractor shall provide a certificate of insurance on the city's approved form which verifies the existence of the insurance required, including provisions to hold the city harmless and defend and indemnify the city. These insurance policies shall be for the full term of the license or franchise and shall provide for the giving of ten days' prior notice to the city of the termination or cancellation of these policies. In case notice is received that any policies will be terminated or cancelled, the license or contract shall be automatically revoked on the termination or cancellation date unless the licensee or contractor provides proof that such policies are still in effect or new insurance has been obtained that meets the city's insurance requirements.

(F) *Design of equipment.* All trucks or motor vehicles used by the licensee or contractor shall be water-tight so as not to allow the leakage of liquids or refuse while hauling the same and shall be covered with a covering to prevent the scattering of its contents upon the public streets or private properties in the city.

(G) *Inspections.* All vehicles used for garbage or rubbish shall be made available for inspection within the city at the times and places as the City Council may designate.

(H) *Bond.* The contractor or licensee may be required to furnish a surety bond in an amount as the City Council deems necessary running to and approved by the City Council, guaranteeing the franchisee's or licensee's faithful and continuous performance of the terms of the franchise, license or contract and of this chapter.

(I) *Licensee requirements.*

Garbage and Refuse

- (1) Licensees must impose charges for the collection of garbage or rubbish consistent with M.S. § 115A.93, subd. 3, as it may be amended from time to time, that increase with the volume or weight of the garbage or rubbish collected.
- (2) Licensees must not impose any additional charges on customers who recycle.
- (3) Where a licensee imposes charges by volume instead of weight, the licensee must establish a base unit size for an average small quantity household and offer a multiple pricing system that ensures that the amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

§ 50.14 COLLECTION OF LEAVES, TREES OR TREE LIMBS.

Nothing in this chapter shall be construed to prevent the collection for hire by other persons of leaves, trees or tree limbs.

CHAPTER 51: SEWER REGULATIONS

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Health and Safety; Nuisances, see Ch. 92

GENERAL PROVISIONS

§ 51.001 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, being 33 U.S.C. §§ 1251 et seq., as amended.

Sewer Regulations

ASTM. American Society for Testing Materials.

AUTHORITY. Spicer, Minnesota, or a representative thereof.

BIOCHEMICAL OXYGEN DEMAND (BOD₅). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in terms of milligrams per liter (mg/l).

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three feet outside the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal. Also referred to as a **HOUSE CONNECTION** or **SERVICE CONNECTION**.

CITY. Spicer, Minnesota. The term **CITY**, when used herein, may also be used to refer to the City Council and its authorized representative.

CITY ADMINISTRATOR and **CITY CLERK.** Interchangeable, where they appear in this chapter.

CONTROL MANHOLE. A structure specially constructed for the purpose of measuring flow and sampling of wastes.

EASEMENT. An acquired legal right for the specific use of land owned by others.

GARBAGE. Animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

INDUSTRIAL WASTE. Gaseous, liquid and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery and processing of natural resources, as distinct from residential or domestic strength wastes.

INDUSTRY. Any non-governmental or non-residential user of a publicly-owned treatment works which is identified in the *Standard Industrial Classification Manual*, latest edition, which is categorized in Divisions A, B, D, E and I.

INFILTRATION. Water entering the sewage system (including building drains and pipes) from the ground through means as defective pipes, pipe joints, connections and manhole walls.

INFILTRATION/INFLOW (I/I). The total quantity of water from both infiltration and inflow.

INFLOW. Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

Sewer Regulations

INTERFERENCE. The inhibition or disruption of the city's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the city's NPDES or SDS permit. The term includes sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under § 405 of the Act (33 U.S.C. § 1345) or any regulations developed pursuant to the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.) or more stringent state criteria applicable to the method of disposal or use employed by the city.

MAY. The term is permissive.

MPCA. The Minnesota Pollution Control Agency.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by those treatment facilities or would interfere with the operation of those treatment facilities, pursuant to § 307(b) of the Act (33 U.S.C. § 1317(b)).

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

NATURAL OUTLET. Any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.

NON-CONTACT COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added is heat.

NORMAL DOMESTIC STRENGTH WASTE. Wastewater that is primarily introduced by residential users with a BOD₅ concentration not greater than 287 mg/l and a suspended solids (TSS) concentration not greater than 287 mg/l.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

PRETREATMENT. The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 cm) in any dimension.

Sewer Regulations

PUBLIC WORKS DEPARTMENT. The Utility Supervisor or Superintendent.

SEWAGE. The spent water of a community. The preferred term is **WASTEWATER**.

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

- (1) **COLLECTION SEWER.** A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
- (2) **INTERCEPTOR SEWER.** A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
- (3) **PRIVATE SEWER.** A sewer which is not owned and maintained by a public authority.
- (4) **PUBLIC SEWER.** A sewer owned, maintained and controlled by a public authority.
- (5) **SANITARY SEWER.** A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters which are not admitted intentionally.
- (6) **STORM SEWER** or **STORM DRAIN.** A drain or sewer intended to carry storm waters, surface runoff, ground water, subsurface water, street wash water, drainage and unpolluted water from any source.

SHALL. The term is mandatory.

SLUG. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

STATE DISPOSAL SYSTEM (SDS) PERMIT. Any permit (including any terms, conditions and requirements thereof) 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.

SUSPENDED SOLIDS (SS) or 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, and referred to as non-filterable residue.

TOXIC POLLUTANT. The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects, as defined in standards issued pursuant to § 307(a) of the Act (33 U.S.C. § 1317(a)).

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, and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities.

Sewer Regulations

USER. Any person who discharges or causes or permits the discharge of wastewater into the city's wastewater disposal system.

UTILITIES SUPERINTENDENT. The person appointed by the City Council to supervise the sewer and water systems of the city.

WASTEWATER. The spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.

WASTEWATER TREATMENT WORKS or **TREATMENT WORKS.** An arrangement of any devices, facilities, structures, equipment or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from that treatment.

WPCF. The Water Pollution Control Federation.
(Prior Code, § 172.10)

§ 51.002 CONTROL OF SEWERS; ADMINISTRATION OF CHAPTER.

The Utilities Superintendent, or other official designated by the City Council shall have control and general supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer is maintained.

§ 51.003 BUILDING SEWERS; GENERAL REQUIREMENTS.

(A) Building sewer construction shall meet the pertinent requirements of the state's Building Code, which is those chapters of Minnesota Rules referenced in Minn. Rules part 1300.2400, subpart 6, as they may be amended from time to time, and the state's Plumbing Code, Minn. Rules Ch. 4715, as it may be amended from time to time.

(B) The applicant shall notify the City Clerk when the building sewer and connection is ready for inspection.

(C) The connection shall be made under the supervision of the Public Works Department.

(D) No backfill shall be placed until the work has been inspected and approved, or until the certification has been received.

(Prior Code, § 172.11) Penalty, see § 51.999

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§ 51.004 TAMPERING WITH WASTEWATER FACILITIES.

(A) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities.

(B) Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

Penalty, see § 51.999

§ 51.005 COST OF REPAIRING OR RESTORING SEWERS.

In addition to any penalties that may be imposed for violation of any provision of this chapter, the city may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by that person, and may collect the assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the city.

GENERAL REGULATIONS**§ 51.015 DEPOSITS OF UNSANITARY MANNER PROHIBITED.**

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the city's jurisdiction, any human or animal excrement, garbage or objectionable waste.

Penalty, see § 51.999

§ 51.016 DISCHARGE OF WASTEWATER OR OTHER POLLUTED WATERS.

It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and the city's NPDES/SDS permit.

Penalty, see § 51.999

§ 51.017 RESTRICTIONS ON WASTEWATER DISPOSAL FACILITIES.

Except as otherwise provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

Penalty, see § 51.999

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§ 51.018 INSTALLATION OF SERVICE CONNECTION TO PUBLIC SEWER.

(A) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the city and adjacent to any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the city shall be required at the owner's expense to install a suitable service connection to the public sewer in accordance with provisions of this code within 365 days of the date the public sewer is operational; provided, the public sewer is within 200 feet of the structure generating the wastewater.

(B) All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer.

(C) If sewer connections are not made pursuant to this section, an official ten-day notice shall be served instructing the affected property owner to make the connection.

Penalty, see § 51.999

PRIVATE WASTEWATER DISPOSAL**§ 51.035 PUBLIC SEWER NOT AVAILABLE.**

Where a public sewer is not available under the provisions of § 51.018 of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter and Minn. Rules Ch. 7080, Design Standards for Individual Subsurface Sewage Treatment Systems, as they may be amended from time to time.

Penalty, see § 51.999

§ 51.036 PERMITS.

(A) *Required.* Prior to commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the city. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary to the city.

(B) *Inspections.* A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city or its authorized representative. The city or its representative shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the city when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice. The Utilities Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, are authorized, with the permission of the licensee, owner, resident or other person in control

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of property within the city, to enter all properties for the purpose of inspection in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain a search warrant as provided for in § 10.20 of this chapter before entering the property, except in emergency situations.

Penalty, see § 51.999

§ 51.037 TYPE, CAPACITIES, LOCATION AND LAYOUT.

(A) The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of Minn. Rules Ch. 7080, Individual Sewage Treatment Systems Program, as they may be amended from time to time. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(B) A city inspector who discovers the existence of a straight-pipe system may issue a non-compliance notice to the owner of the straight-pipe system and forward a copy of the notice to the Pollution Control Agency. The notice must state that the owner must replace or discontinue the use of the straight-pipe system within ten months of receiving the notice. If the owner does not replace or discontinue the use of the straight-pipe system within ten months after the notice was received, the owner of the straight-pipe system shall be subject to a Pollution Control Agency administrative penalty of \$500 per month of non-compliance beyond the ten-month period. Administrative penalty orders may be issued for violations under this division (B), as provided in M.S. § 116.072, as it may be amended from time to time. One-half of the proceeds collected from an administrative penalty order issued for violating this subdivision shall be remitted to the local unit of government with jurisdiction over the non-compliant straight-pipe system.

Penalty, see § 51.999

§ 51.038 DIRECT CONNECTION REQUIRED.

At the time a 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 365 days in compliance with this chapter, and within 365 days any septic tanks, cesspools and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage and the tank or pit filled or may be removed.

Penalty, see § 51.999

§ 51.039 OPERATION AND MAINTENANCE BY OWNER.

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

§ 51.040 APPLICATION OF SUBCHAPTER.

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the state's Department of Health.

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BUILDING SEWERS AND CONNECTIONS**§ 51.055 RESTRICTIONS ON NEW CONNECTIONS.**

Any new connections 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, BOD₅ and suspended solids, as determined by the Utilities Superintendent.

Penalty, see § 51.999

§ 51.056 BUILDING SEWER PERMITS.

(A) *Required.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(B) *Applications.* Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.

(C) *Classes.* There shall be two classes of building sewer permits: one for residential and commercial service; and one for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications or any other information considered pertinent in the judgment of the city. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity.

(D) *Inspection and connection.* The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Utilities Superintendent or authorized representative thereof.

Penalty, see § 51.999

§ 51.057 COSTS AND EXPENSES.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

Penalty, see § 51.999

§ 51.058 SEPARATE BUILDING SEWERS REQUIRED.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building

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may be extended to the rear building and the whole considered one building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any connection. Penalty, see § 51.999

§ 51.059 OLD BUILDING SEWERS; RESTRICTIONS ON USE.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Utilities Superintendent or his or her representative, to meet all requirements of this chapter.

§ 51.060 CONFORMANCE TO STATE BUILDING AND PLUMBING CODE REQUIREMENTS.

(A) The size, slopes, alignment, materials of construction of building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling of the trench, shall all conform to the requirements of the state's Building and Plumbing Code or other applicable rules and regulations of the city. Cast iron pipe shall be used for a building sewer laid within 50 feet of any well per State Public Health Department requirements.

(B) The connection of the building sewer into the public sewer shall conform to the requirements of the state's Building and Plumbing Code or other applicable rules and regulations of the city. All connections shall be made gas-tight and water-tight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

Penalty, see § 51.999

§ 51.061 ELEVATION BELOW BASEMENT FLOOR.

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, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

Penalty, see § 51.999

§ 51.062 SURFACE RUNOFF OR GROUND WATER CONNECTIONS PROHIBITED.

(A) No person shall discharge water or cause to be discharged any unpolluted waters such as storm water, ground water, roof run off, subsurface drainage such as that from floor drains, sump pumps, cisterns, field tile or any other recognizable source or any type of private, commercial or industrial cooling water to any sanitary sewer.

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(B) Any person, firm or corporation having a roof drain system, surface drain system, footing tile, swimming pool, ground water drain system or sump pump now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or opening into the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the public works supervisor.

(C) Dwellings and other buildings and structures which require because of the infiltration of water into basements, crawl spaces and the like, a sump pump system to discharge excess water shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system. A permanent installation shall be one which provides for year around discharge capability to either the outside of the dwelling, building or structure, or is connected to the city storm sewer. It shall consist of a rigid discharge line, without valves or quick connections for altering the path of discharge and, if connected to the city storm sewer, shall include a check valve.

(D) Duly authorized employees or representatives of the city, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing pertinent to determine the nature of discharge into any public sewer or natural outlet in accordance with the provisions of this chapter. In lieu of having the city inspect their property, any person or entity may furnish a certificate from a licensed plumber certifying that their property is in compliance with this chapter.

(E) Any person refusing to allow their property to be inspected or refusing to furnish a plumbers certificate within 14 days of the date the duly authorized city employees or representatives are denied admittance to their property shall be subject to the surcharge hereafter provided for.

(F) At any future time, if the city has reason to suspect that an illegal connection may exist in a premises, the owner, by written notice shall comply with the provisions of division (C) above.

(G) A surcharge of \$100 per month may be imposed and added to every sewer billing mailed to property owners who are not in compliance with this chapter. The surcharge shall be added every month until the property is in compliance. The City Council may grant waivers from the surcharges where strict enforcement may cause undue hardship unique to the property or where the property owner was scheduled for disconnection, but cannot do so due to circumstances, such as availability of the plumber or inclement weather.

§ 51.063 EXCAVATIONS.

(A) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(B) Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

Penalty, see § 51.999

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§ 51.064 LICENSES.

(A) *Required.* No person shall make a service connection with any public sewer unless regularly licensed under this chapter to perform the work, and no permit shall be granted to any person, except a regularly licensed person. A person licensed as a plumber by the state, or a person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

(B) *Application.*

(1) Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license.

(2) All applications shall be referred to the Utilities Superintendent for recommendations to the Council.

(3) If approved by the Council, the license shall be issued by the City Clerk upon the filing of a bond as hereinafter provided.

(C) *Issuance.* No license shall be issued to any person until a policy of insurance to the city, approved by the Council, is filed with the City Clerk conditioned that the licensee will indemnify and save harmless the city 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 for any purpose whatever, and that the licensee will replace and restore the street and alley over that opening to the condition existing prior to installation, adequately guard with barricades and lights and will keep and maintain the same to the satisfaction of the Utilities Superintendent, and shall conform in all respects to any rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

(D) *Fee.* The license fee for making service connections shall be as established by the city. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause.

(E) *Suspension or revocation.* The Council may suspend or revoke any license issued under this subchapter for any of the following causes:

(1) Giving false information in connection with the application for a license;

(2) Incompetence of the licensee; and

(3) Willful violation of any provisions of this chapter or any rule or regulation pertaining to the making of service connections.

Penalty, see § 51.999

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USE OF PUBLIC SERVICES**§ 51.080 DISCHARGES OF UNPOLLUTED WATER.**

(A) No person shall discharge or caused to be discharged any water such as storm water, ground water, roof runoff, surface drainage or non-contact cooling water to any sanitary sewer.

(B) (1) Storm water and all other unpolluted drainage shall be discharged to those sewers as are specifically designed as storm sewers or to a natural outlet approved by the city and other regulatory agencies.

(2) Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the city and upon approval and the issuance of a discharge permit by the MPCA. Penalty, see § 51.999

§ 51.081 DISCHARGES OF WATERS OR WASTES.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;

(B) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

(C) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater disposal system; and

(D) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Act (33 U.S.C. § 1317(a)).

Penalty, see § 51.999

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§ 51.082 LIMITED DISCHARGES.

(A) The following described substances, materials, water or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works, treatment process or equipment, will not have an adverse effect on the receiving stream and soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Utilities Superintendent may set limitations lower than limitations established in the regulations below if, in his or her opinion, the more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability of wastes, the Utilities Superintendent will give consideration to factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the city's NPDES/SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors.

(B) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Utilities Superintendent are as follows:

- (1) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104°F (40°C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein;
- (2) Any wastewater containing fats, wax, grease or oils, whether emulsified or not, 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); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not;
- (3) Any quantities of flow, concentrations or both which constitute a *Aslug@*, as defined in § 51.001 of this chapter;
- (4) Any garbage not properly shredded, as defined in § 51.001 of this chapter. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food on the premises or when served by caterers;
- (5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair;
- (6) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions;
- (7) Non-contact cooling water or unpolluted storm, drainage or ground water;

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(8) Wastewater containing inert suspended-solids such as, but not limited to, fullers earth, lime slurries and lime residues, or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate, in quantities that would cause disruption with the wastewater disposal system;

(9) Any radioactive wastes or isotopes of half-life or concentration as may exceed limits established by the Utilities Superintendent in compliance with applicable state or federal regulations;

(10) Any waters or wastes containing the following substances to the degree that any material received in the composite wastewater at the wastewater treatment works is detrimental to treatment process, adversely impacts land application, adversely effects receiving waters, or is in violation of standards pursuant to § 307(b) of the Act (33 U.S.C. § 1317(b)): arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, zinc and phenolic compounds which cannot be removed by the city's wastewater treatment system;

(11) Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation or ordinance of any regulatory agency, or state or federal regulatory body; and/or

(12) Any waters or wastes containing BOD₅ or suspended solids of character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of § 51.094 of this chapter.

§ 51.083 DISCHARGES HAZARDOUS TO LIFE OR CONSTITUTE PUBLIC NUISANCES.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in § 51.082 of this chapter, or which, in the judgment of the Utilities Superintendent, may have a deleterious effect upon the wastewater treatment facilities, processes or equipment, receiving waters or soil, vegetation and ground water, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to § 307(b) of the Act (33 U.S.C. § 1317(b)) and all amendments thereof;

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

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

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

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§ 51.084 INCREASING USE OF PROCESS WATER.

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 §§ 51.081 and 51.082 of this chapter, or contained in the national categorical pretreatment standards or any state requirements.

Penalty, see § 51.999

§ 51.085 PRETREATMENT OR FLOW-EQUALIZING FACILITIES.

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

§ 51.086 GREASE, OIL AND SAND INTERCEPTORS.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 51.082(B)(2) of this chapter, any flammable wastes as specified in § 51.081(A) of this chapter, sand or other harmful ingredients; except that interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the 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 Utilities Superintendent. Any removal and hauling of the collecting materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.

Penalty, see § 51.999

§ 51.087 INDUSTRIAL WASTES; INSTALLATIONS.

Where required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of wastes. The structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The structure shall be installed by the owner at his or her expense and shall be maintained by the owner to be safe and accessible at all times.

Penalty, see § 51.999

§ 51.088 INDUSTRIAL WASTES; REQUIREMENTS.

The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate

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compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at times and in the manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At those times as deemed necessary, the city reserves the right to take measurements and supplies for analysis by an independent laboratory.

Penalty, see § 51.999

§ 51.089 MEASUREMENTS, TESTS AND ANALYSES OF WATERS AND WASTES.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Utilities Superintendent.

Penalty, see § 51.999

§ 51.090 PROTECTION FROM ACCIDENTAL DISCHARGE OF PROHIBITED MATERIALS.

(A) Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this chapter.

(B) Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense.

(C) Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Utilities Superintendent for review and approval prior to construction of the facility. Review and approval of the plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

(D) (1) Users shall notify the Utilities Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this chapter to enable countermeasures to be taken by the Utilities Superintendent to minimize damage to the wastewater treatment works. The notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the city on account thereof under any state and federal law.

(2) Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedure.

Penalty, see § 51.999

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§ 51.091 PERMITTING SUBSTANCE OR MATTER TO FLOW OR PASS INTO PUBLIC SEWERS.

(A) No person having charge of any building or other premises which drains into the public sewer shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer.

(B) Within 30 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap or, if one already exists, shall clean out, repair or alter the same, and perform other work as the Utilities Superintendent may deem necessary.

(C) Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair or alter the same after the period of 30 days, the Utilities Superintendent may cause the work to be completed at the expense of the owner or representative thereof.

Penalty, see § 51.999

§ 51.092 REPAIRING SERVICE CONNECTION.

(A) Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause the work to be done as the Utilities Superintendent may direct.

(B) Each day after 30 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Utilities Superintendent may then cause the work to be done, and recover from the owner or agent the expense thereof by an action in the name of the city.

Penalty, see § 51.999

§ 51.093 CATCH BASIN OR WASTE TRAPS REQUIRED FOR MOTOR VEHICLE WASHING OR SERVICING FACILITIES.

The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

Penalty, see § 51.999

§ 51.094 SPECIAL AGREEMENT AND ARRANGEMENT.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern; provided that, national categorical pretreatment standards and the city's NPDES/SDS permit limitations are not violated.

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USER RATE SCHEDULE FOR CHARGES**§ 51.110 CHARGES GENERALLY.**

Each user of sewer service shall pay the charges applicable to the type of service and in accordance with the provisions set forth in this subchapter.

§ 51.111 PURPOSE.

The purpose of the subchapter is to provide for sewer service charges to recover costs associated with operation, maintenance and replacement to ensure effective functioning of the city's wastewater treatment system and local capital costs incurred in the construction of the city's wastewater treatment system.

§ 51.112 DEFINITIONS.

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

ADMINISTRATION. Those fixed costs attributable to administration of the wastewater treatment works such as billing and associated bookkeeping and accounting costs.

CITY. The City of Spicer, Minnesota. When used herein, the term ***CITY*** may also refer to the City Council or its authorized representative.

DEBT SERVICE CHARGE. A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct the facilities.

INCOMPATIBLE WASTE. Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

INDUSTRIAL USERS or INDUSTRIES.

(1) (a) Entities that discharge into a publicly-owned wastewater treatment works liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the *Standard Industrial Classification Manual*, latest edition, Office of Management and Budget, as amended and supplemented under one of the following divisions:

1. Division A, Agriculture, forestry and fishing;
2. Division B, Mining;

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3. Division D, Manufacturing;
4. Division E, Transportation, communications, electric, gas and sanitary sewers; and
5. Division I, Services.

(b) For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

1. BOD₅: less than 287 mg/l; and
2. Suspended solids: less than 287 mg/l.

(2) Any non-governmental user of a publicly-owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

MAY. The term is permissive.

OPERATION AND MAINTENANCE. Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer of the treatment works, and at the level of performance for which the treatment works were constructed. The term includes replacement.

OPERATION AND MAINTENANCE COSTS. Expenditures for operation and maintenance, including replacement.

REPLACEMENT. Obtaining and installing of equipment, accessories or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

REPLACEMENT COSTS. Expenditures for replacement.

SANITARY SEWER. A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters which are not admitted intentionally.

SEWER SERVICE CHARGE. The aggregate of all charges, including charges for operation, maintenance, replacement, debt service and other sewer related charges that are billed periodically to users of the city's wastewater treatment facilities.

SEWER SERVICE FUND. A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater

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treatment. Expenditure of the **SEWER SERVICE FUND** will be for operation, maintenance and replacement costs and to retire debt incurred through capital expenditure for wastewater treatment.

SHALL. The term is mandatory.

TOXIC POLLUTANT. The concentration of any pollutant or combination of pollutants as defined in standards issued pursuant to § 307(a) of the Act (33 U.S.C. § 1317(a)), which upon exposure to or assimilation into any organism, will cause adverse effects.

USER CHARGE. A charge levied on a user of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

USERS. Those residential, commercial, governmental, institutional and industrial establishments which are connected to the public sewer collection system.

WASTEWATER. The spent water of a community. Also referred to as **SEWAGE**. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.

WASTEWATER TREATMENT WORKS or **TREATMENT WORKS.** An arrangement of any devices, facilities, structures, equipment or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment.

§ 51.113 ESTABLISHMENT OF A SEWER SERVICE CHARGE SYSTEM.

(A) The city hereby establishes a sewer service charge system whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

(B) Each user shall pay its proportionate share of operation, maintenance and replacement costs of the treatment works, based on the users' proportionate contribution to the total wastewater loading from all users.

(C) Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

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(D) Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a sewer service charge system developed according to the provisions of this subchapter. The sewer service charge system shall be the system enacted prior to the adoption of this code.

(E) Revenues collected for sewer service shall be deposited in a separate fund known as the Sewer Service Fund. Income from revenues collected will be expended to off-set the cost of operation, maintenance and equipment replacement for the facility and to retire the debt for capital expenditure.

(F) Sewer service charges and the Sewer Service Fund will be administered in accordance with the provisions of § 51.116 of this chapter.

(G) A connection fee as fixed by the city shall be charged to each user connecting a new service to the sanitary sewer system. The connection fee shall be due and payable within 90 days of the date the connection is completed.

(H) A sewer availability charge, as fixed by the city, as that ordinance may be amended from time to time may be charged.

Penalty, see § 51.999

§ 51.114 DETERMINATION OF SEWER SERVICE CHARGES.

The sewer service rates and charges to users of the wastewater treatment facility shall be as established by ordinance or resolution prior to the adoption of this code, unless amended or modified. Charges made for service rendered shall conform to M.S. § 444.075, subd. 3a, as it may be amended from time to time. All accounts shall be carried in the name of the owner who personally, or by his or her authorized agent, applied for such service. The property owner shall be liable for all sewer services supplied to the property, whether he or she is occupying the property or not.

Penalty, see § 51.999

§ 51.115 SEWER SERVICE FUND.

(A) The city hereby establishes a Sewer Service Fund as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees and assessments intended to retire construction debt. The city also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

- (1) Operation and Maintenance Account;
- (2) Equipment Replacement Account; and
- (3) Debt Retirement Account.

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(B) All revenue generated by the sewer service charge system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the City Clerk separate and apart from all other funds of the city. Funds received by the Sewer Service Fund shall be transferred to the Operation and Maintenance Account, the Equipment Replacement Account and the Debt Retirement Account in accordance with state and federal regulations and the provisions of this chapter.

(C) Revenue generated by the sewer service charge system sufficient to ensure adequate replacement throughout the design life or useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the Equipment Replacement Account and dedicated to affecting replacement costs. Interest income generated by the Equipment Replacement Account shall remain in the Equipment Replacement Account.

(D) Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the Operation and Maintenance Account.

§ 51.116 ADMINISTRATION.

The sewer service charge system and Sewer Service Fund shall be administrated according to the following provisions.

(A) The City Clerk shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of those costs annually in December. The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with § 51.113(B) of this chapter. The city shall thereafter, but not later than the end of the year, reassess and as necessary revise the sewer service charge system then in use to ensure the proportionality of the user charges and to ensure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

(B) In accordance with federal and state requirements, each user will be notified annually in conjunction with a regular billing of that portion of the sewer service charge attributable to operation, maintenance and replacement.

(C) In accordance with federal and state requirements, the City Clerk shall be responsible for maintaining all records necessary to document compliance with the sewer service charge system adopted.

(D) Bills for sewer service charges shall be rendered on a monthly basis succeeding the period for which the service was rendered and shall be due ten days from the date of rendering. Any bill not paid in full 30 days after the due date will be considered delinquent. At that time, the city shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed at 10% of the original bill and shall be increased the same 10% for every month the bill is

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outstanding. Disconnection of services for late payment shall follow the procedures established in Ch. 54 of this code of ordinances.

(E) The owner of the premises shall be liable to pay for the service to his or her premises, and the service is furnished to the premises by the city only upon the condition that the owner of the premises is liable therefor to the city.

(F) Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs and sludge disposal, shall be borne by the discharger of the wastes, at no expense to the city.

(Prior Code, § 172.12)

POWERS AND AUTHORITY OF INSPECTORS

§ 51.130 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTIES.

The Utilities Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter all properties for the purpose of inspection, observations, measurement, sampling and testing pertinent to the discharges to the city's sewer system in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 of this code of ordinances before entering the property, except in emergency situations.

§ 51.131 AUTHORIZED EMPLOYEES OBTAINING INFORMATION FOR INDUSTRIAL PROCESSES.

The Utilities Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes, which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential; however, the industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

§ 51.132 AUTHORIZED EMPLOYEES TO OBSERVE SAFETY RULES.

While performing necessary work on private properties, the Utilities Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the property owner shall be held harmless for injury or death to the city employees and the city shall

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indemnify the property owner against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.087 of this chapter.

§ 51.133 AUTHORIZED EMPLOYEES PERMITTED TO ENTER ALL PROPERTY WITH EASEMENTS.

The Utilities Superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 51.999 PENALTY.

(A) (1) Any person found to be violating any provisions of §§ 51.001 through 51.094 and 51.130 through 51.133 of this chapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in division (A)(1) above shall be punished as provided in § 10.99 of this code of ordinances. Each day in which any violation occurs shall be deemed as a separate offense.

(3) Any person violating any of the provisions of §§ 51.001 through 51.094 and 51.130 through 51.133 of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of that violation.

(B) (1) Each and every sewer service charge levied by and pursuant to §§ 51.110 through 51.116 of this chapter is made a lien upon the lot or premises served, and all charges which are on October 31 of each year past due and delinquent shall be certified to the County Auditor by November 29, for collection as provided for in Ch. 54 of this code of ordinances. Nothing in §§ 51.110 through 51.116 of this chapter shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

(2) As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect amounts as are delinquent and due against the occupant, owner or user of the real estate, and shall collect as well all attorney's fees incurred by the city in filing the civil action. Attorney's fees shall be fixed by order of the court.

Sewer Regulations

(3) In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 8% per annum.

CHAPTER 52: WATER REGULATIONS

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Cross-reference:

Assessable current services, see § 92.01

Water Regulations

GENERAL PROVISIONS

§ 52.01 GENERAL OPERATION.

The city does hereby make provision for the establishment of a municipal water system (hereinafter called the water system) to be operated as a public utility.

§ 52.02 USE OF WATER SERVICE.

(A) No person other than a city employee shall uncover or make or use any water service installation connected to the city water system except in the manner provided by this chapter.

(B) No person shall make or use any installation contrary to the regulatory provisions of this chapter.
Penalty, see § 10.99

§ 52.03 USE TO CIRCUMVENT CHAPTER PROHIBITED.

No person shall permit water from the water system to be used for any purpose to circumvent this chapter.
Penalty, see § 10.99

§ 52.04 DAMAGE TO WATER SYSTEM.

(A) No unauthorized person shall remove or damage any structure, appurtenance or part of the water system or fill or partially fill any excavation or move any gate valve used in the water system.

(B) No person shall make any connection of an electrical welder to the city water main, appurtenance or service or use an electric welder for the purpose of thawing frozen water mains, appurtenances or services.
Penalty, see § 10.99

§ 52.05 CONNECTIONS BEYOND CITY BOUNDARIES.

Where water mains of the city are in any street or alley adjacent to or outside the corporate limits of the city, the City Council may issue permits to the owners or occupants of properties adjacent or accessible to the water main to make proper water service pipe connections with the water mains of the city and to be supplied with water in conformity with the applicable provisions of this chapter and subject to any contract for the supply of water between the city and any other city. The water meter pit will be in the city limits. The city will own and maintain the water meter. The user will pay for the original meter in the connection fee.

Penalty, see § 10.99

Water Regulations

§ 52.06 CONNECTION TO SYSTEM REQUIRED; USE OF PRIVATE WELLS.

(A) Except where municipal water is not available, it shall be unlawful to construct, reconstruct, or repair any private water system which is designed or intended to provide water for human consumption. Private wells, to provide water for other than human consumption, may be constructed, maintained and continued in use after connection is made to the water system; provided, there is no means of cross-connection between the private well and municipal water supply at any time. Hose bibs that will enable the cross-connection of the two systems are prohibited on internal piping of the well system supply. Where both private and city systems are in use, outside hose bibs shall not be installed on both systems. Existing private wells are exempt from this regulation. Owners are encouraged to maintain a second meter for outside watering only.

(B) All new homes or buildings shall connect to the municipal water system if water is available to the property. At the time as municipal water becomes available to existing homes or buildings, a direct connection shall be made to the public system within a period of time as determined by the City Council. If the connection is not made pursuant to this chapter, a charge shall be made in an amount established by § 52.51 of this chapter.

(C) Where new homes or buildings do not have water available to the property, the city shall determine whether and under what conditions the municipal water system will be extended to serve the property.

(D) If the well is not to be used after the time a municipal water connection is made:

(1) The well pump and tank shall be disconnected from all internal piping;

(2) The casing shall be filled with sandy soil from the bottom to a point eight feet from the top;

(3) The remaining eight feet shall be filled with concrete to the floor level and the well casing cut off as close to the floor level as possible;

(4) Within 30 days after the municipal water connection is made, the owner or occupant must advise the city's Utilities Superintendent that the well has been sealed.

(5) Notwithstanding the foregoing, all well abandonment shall be done in accordance with M.S. §§ 103I.301 to 103I.345, as it may be amended from time to time, and Minn. Rules Ch. 4725, Wells and Borings, as it may be amended from time to time. All well sealing shall be performed by a professional licensed well driller trained in well abandonment.

(Prior Code, § 172.15) (Ord. 109, passed - -) Penalty, see § 10.99

§ 52.07 USE OF WATER FOR AIR CONDITIONING; PERMITS.

(A) All air conditioning systems which are connected directly or indirectly with the public water system must be equipped with water conserving and water regulating devices and a backflow device as approved by the City Engineer or City Utilities Superintendent.

Water Regulations

(B) Permits shall be required for the installation of all air conditioning systems to the public water system. The fee shall be established pursuant to § 52.51 of this chapter.
Penalty, see § 10.99

§ 52.08 USE OF WATER FROM FIRE HYDRANTS; TEMPORARY CONNECTIONS.

(A) *Use of fire hydrants.* Except for extinguishment of fires, no person, unless authorized by the Public Works Director or Public Utilities Department, shall operate fire hydrants or interfere in any way with the water system without first obtaining a permit to do so from the city as follows.

(1) A permit to use a fire hydrant shall be issued for each individual job or contract and for a minimum of 30 days and for the additional 30-day period, as the city shall determine. The permit shall state the location of the hydrant and shall be for the use of that hydrant and none other.

(2) The user shall make an advance cash deposit to guarantee payment for water used and to cover breakage and damage to the hydrant and meter, which shall be refunded upon expiration of the permit, less applicable charges for use.

(3) The user shall relinquish the use of the hydrant to authorized city employees in emergency situations.

(4) The user shall pay a rental charge, as established pursuant to § 52.51 of this chapter, for each day including Sundays and legal holidays, and a fee as established by the city for each 1,000 gallons of water used.

(5) Connections to a public water supply to fill tankers must follow backflow prevention standards. The connection will have a reduced pressure zone backflow device.

(B) *Temporary connection to fire hydrants.* An owner of a private water system may make a temporary above ground connection to a fire hydrant, subject to the time periods, conditions and payment specified in § 52.51 of this chapter. In addition, the method of connection to the private system shall conform to all existing requirements of this chapter and city ordinance and the type of meter used shall meet the approval of the Utilities Superintendent.

Penalty, see § 10.99

§ 52.09 WATER DEFICIENCY, SHUT OFF AND USE RESTRICTIONS.

(A) (1) The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs of construction of new works, water may be shut off without notice at any time and kept off as long as necessary.

(2) In addition, the City Council shall have the right to impose reasonable restrictions on the use of the city water system in emergency situations.

Water Regulations

(3) For non-payment of charges, water service may be discontinued according to the procedures established in § 52.72 of this chapter.

(B) (1) 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.

(2) After publication of the resolution, no person shall use, or permit water to be used, in violation of the resolution, and any customer who does so shall be charged a fee set by resolution of the Council for each day of violation and the charge shall be added to his or her next water bill.

(3) 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.

(4) Continued violation shall be cause for discontinuance of water service.

WATER REGULATIONS

§ 52.25 SUPPLY FROM ONE SERVICE.

No more than one housing unit or building shall be supplied from one service connection, except by permission of City Council. Each unit served shall have a separate water meter.

Penalty, see § 10.99

§ 52.26 TAPPING OF MAINS RESTRICTED.

No person, except persons authorized by the City Council, shall tap any distributing main or pipe of the water supply system or insert stopcocks or ferrules therein.

Penalty, see § 10.99

§ 52.27 REPAIRS.

(A) *Determination of need for repairs.* Based on the information supplied by the property owner or available to the city, the city may make a determination whether a problem exists in that portion of the service which is the city's responsibility. If the problem, appears to exist in the areas for which the city has no responsibility, the private owners will be responsible for correction of the problem.

Water Regulations

(B) *Thawing of water services.* If the freezing problem is found within that portion of the service for which the private owner is responsible, the private owner thereafter will be responsible for thawing the service and correction of the problem.

(C) *Excavation or repair of water service.*

(1) The city may arrange for the investigative digging up and repair of any water service where the problem apparently exists within that area for which the city has responsibility.

(2) Unless it is clearly evident, however, that the problem is the responsibility of the city, the excavation and repair may not be made until the property owner requests the city in writing to excavate or repair the service and agrees to pay the cost.

(3) The owner further agrees to waive public hearing and be special assessed the cost of the excavation and repair if the problem is found to be other than the city's responsibility. The city may make the determination for responsibility of the cost of investigation or repair.

(4) The matter of whether the dig up is done by city forces or contracted would depend on the urgency or need of repair and the availability of city forces to do the work. Recovery by the city for faulty construction will depend upon the circumstances and the decision of the City Attorney on the likelihood of recovery.

(D) *Failure to repair.* In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after verbal or written notice thereof, the water may be turned off by the city and may not be turned on until the leak has been repaired and a fee pursuant to § 52.51 of this chapter has been paid to the city.

(Prior Code, § 172.16) Penalty, see § 10.99

§ 52.28 ABANDONED OR UNUSED SERVICES.

(A) If the premises served by water have been abandoned, or if the service has not been used for one year, then the service may be shut off at the curb stop box by the city and the water meter will be removed.

(B) When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains may be made until all the old service has been removed and the main taps plugged or yoked connections installed by the city at the owner's expense.

Penalty, see § 10.99

§ 52.29 DISCONNECTION PERMIT.

A permit must be obtained to disconnect from the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to § 52.51 of this chapter.

Penalty, see § 10.99

Water Regulations

§ 52.30 SERVICE PIPES.

Every service pipe shall be laid so as to allow at least one foot of extra length in order to prevent rupture by settlement. The service pipe must be placed no less than seven feet below the ground and in a manner as to prevent rupture by freezing. Service pipes must extend from the curb stop box to the inside of the building, or if not taken into the building, then to the hydrant or fixtures which it is intended to supply. All tubing and pipes shall conform to the state's Plumbing Code. All underground joints are to be mechanical, except joints under floors shall be soldered in accordance with the state's Plumbing Code, unless otherwise approved by the Utilities Superintendent. Joints of copper tubing shall be kept to a minimum and all joints shall conform to the state's Plumbing Code. All joints and connections shall be left uncovered until inspected by the Utilities Superintendent and must comply with the state's Plumbing Code and tested at normal water line pressure. Unions must conform to the state's Plumbing Code. Connections with the mains for domestic supply shall be at least three-quarter inch up to the curb stop box.

Penalty, see § 10.99

§ 52.31 EXCAVATION AND CONSTRUCTION REQUIREMENTS.

(A) No excavation shall be made until a permit for the connection has been issued by the city.

(B) No water service pipe or water connection shall be installed in the same trench or closer than ten feet horizontally to a sewer trench or drain laid, or to be laid, either in the street or in private property; except that, the water pipe on private property may be in a common trench with a sewer drain which is of a material that is in conformance with the current State Plumbing Code, Minn. Rules Ch. 4714, as it may be amended from time to time.

(C) Where it is desired to lay the water service pipe and the building sewer pipe in the same trench, or in separate trenches less than ten feet apart, the water service pipe shall be above the sewer pipe unless approved by the City Engineer. It shall be placed at least one foot above the sewer and on a solid shelf excavated at one side of the trench. The sewer pipe shall be of a material that is in conformance with the state's Plumbing Code with tested water-tight joints. The water service pipe shall be water-tight and corrosion resistant. Copper pipe and ductile or cast iron water pipe with specially protected joints is acceptable for this construction. Cast iron pipe shall conform to the American Water Works Association specifications for this pipe. Bell joint clamps with rubber gaskets are provisionally acceptable as extra protection for the joints on cast iron water pipe. In all cases, precautions shall be taken to assure a firm foundation for the pipes. The intervening space between the pipes shall be backfilled with compacted earth.

(D) In case the installation is on a surfaced street, the following shall apply: all backfill materials shall be mechanically compacted in 12-inch layers to the density of the adjacent material in the roadway area and to the existing street grades in accordance with the state's Department of Transportation standards. Complete surface restoration shall be made.

Penalty, see § 10.99

Water Regulations

§ 52.32 CONNECTION TO OTHER WATER SUPPLIES RESTRICTED.

No water pipe of the water system shall be connected with any pump, well, tank or piping that is connected with any other source of water supply, except to service municipal systems.

Penalty, see § 10.99

§ 52.33 WATER CONNECTIONS; APPLICATIONS AND CHARGES.

(A) *Connection applications.*

(1) All applications for service installations and for water service shall be made to the City Clerk. All applications for service installations and water service shall be made by the owner or agent of the property to be served and shall state the size and location of service connection required. The applicant shall, at the time of making application, pay to the city the amount of fees as established by the city or deposit required for the installation of the service connection, as hereinafter provided. Applications for services larger than one inch shall be accompanied by two sets of plans or sketches indicating preferred location of service pipe and size of service based on building demand.

(2) The size of the water service connections and meter shall be subject to approval of the City Engineer. Water meter sizing for a domestic connection shall be five-eighths inch by three-fourths inch. The standard service line size will be one inch. If the homeowner requests a larger service line the extra cost of the water meter will be charged to the connection owner. The future replacement of the water meter will be billed at the difference between the standard meter cost and meter need to accommodate the larger line at the time of replacement.

(3) Water billing shall start at the time of installation of the water meter, or in the event the meter is not installed, seven days after completion of outside piping, and shall be calculated upon the minimum quarterly rate, prorated on a semi-monthly basis.

(B) *Connection charges.*

(1) A permit must be obtained to connect to the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to § 52.51 of this chapter. The city shall install or have installed all service connections from the water main to the curb stop box including the stop box. Payment for service connections must be made before the work is started and should be based upon one and one-half times the estimate of costs provided by the City Engineer. Any excess deposit shall be returned to the applicant.

(2) Additional charges shall be paid at the time of making application for tapping and making connections with the water main to where a curb stop box and service lead is not previously installed. The charge shall include the tapping of the water main, corporation cocks, the installation of a service line, the installation of a curb stop box, cost of restoring disturbed areas and all other costs related to the installation.

Water Regulations

(3) There shall be a connection charge pursuant to § 52.51 of this chapter levied by the city to contribute to the payment of the costs of the public water system facilities. The City Council shall set, by resolution, the charges to be made for non-residential installations.

(4) When water services have been stopped because of a violation of this chapter, the city shall collect the fee established pursuant to § 52.51 of this chapter before service is recommenced.

(5) If a person desires to connect to the system and service a parcel that has not been assessed for the cost of water main and lateral construction, then, before a permit is granted, the city shall collect an amount from the applicant that is established pursuant to § 52.51 of this chapter.

Penalty, see § 10.99

§ 52.34 LOCATION OF CURB STOP BOX.

(A) Curb stop boxes will be installed on the right-of-way line or easement limits at a location as determined by the City Engineer to be best suitable to the property and shall be left in a vertical position when backfilling is completed.

(B) Curb stop boxes will be installed at an approximate depth of seven feet below the finished ground elevation and the top of the curb stop box shall be adjusted to be flush with the finished ground elevation.

(C) Curb stop boxes must be firmly supported by a masonry block.

(D) No person shall erect any fence or plant any tree or other landscaping that would obstruct, or place a structure on, park a motor vehicle on or otherwise obstruct the use of the curb stop box, or cause damage to the same.

Penalty, see § 10.99

§ 52.35 WATER METERS.

(A) *Generally.*

(1) Except for extinguishment of fires, no person, unless otherwise authorized by the City Council or Public Utilities Department, shall use water from the water system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied or approved by the city.

(2) No person not authorized by the City Council or Utilities Superintendent shall connect, disconnect, take apart or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

(a) A charge established pursuant to § 52.51 of this chapter shall be paid by customers to the city for water meters, including installations and check valves and payment for same shall be made at the time of water service application. This payment shall be made only once, subject to the following.

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(b) Where a consumer has need for a larger line in addition to his or her domestic line, as in the case of a commercial consumer who needs a one-inch line for normal use and a six-inch or larger line for a fire sprinkler system, he or she will be permitted to run one line into the premises and AY@ off into two lines at the building. When this is done, the meter will be attached to the small or domestic line and a check valve as well as one-inch detection meter shall be put on the large line.

(c) The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them, if necessary. When replacement, repair or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or carelessness of the owner or occupant of the premises, any expense caused the city thereby shall be charged against and collected from the water consumer.

(d) A consumer may, by written request, have his or her meter tested by depositing the amount established pursuant to § 52.51 of this chapter. In case a test should show an error of over 5% of the water consumed, a correctly registering meter will be installed and the bill will be adjusted accordingly and the testing deposit refunded. This adjustment shall not extend back more than one billing period from the date of the written request.

(e) All water meters and remote readers shall be and remain the property of the city.

(f) Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for reading of meters and inspections. However, city employees may not enter private property without obtaining the permission of the owner to do so or have obtained a search warrant issued by a court of competent jurisdiction, as provided for in § 10.20 of this code of ordinances.

(g) It shall be the responsibility of the consumer to notify the city to request a final reading at the time of the customer's billing change.

(B) *Water meter setting.* All water meters hereafter installed shall be in accordance with the state's Plumbing Code and any standards established by resolution of the City Council.
Penalty, see § 10.99

RATES AND CHARGES

§ 52.50 WATER UNIT.

WATER UNIT is defined as equivalent dwelling unit which is the average monthly residential unit.
(Prior Code, § 172.17)

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§ 52.51 RATES, FEES AND CHARGES GENERALLY.

(A) The City Council shall establish a schedule of all water rates, fees and charges for permits or services.

(B) In accordance with M.S. § 444.075, subd. 3, as it may be amended from time to time, charges made for service rendered shall be as nearly as possible proportionate to the cost of furnishing the service.

§ 52.52 WATER SERVICE BILLING; CHANGE OF ADDRESS.

(A) All bills and notices shall be mailed or delivered to the address where service is provided. If non-resident owners or agents desire personal notice sent to a different address, they shall so note on the water service application. Any change or error in address shall be promptly reported to the City Clerk.

(B) All accounts shall be carried in the name of the owner who personally or by his or her authorized agent, applied for the service. The owner shall be liable for water services supplied to the property whether he or she is occupying the property or not.

§ 52.53 WATER RATES.

(A) The rate due and payable by each user within the city for water taken from the water system shall be established pursuant to § 52.51 of this chapter.

(B) In case the meter is found to have stopped, or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.

(C) Rates due and payable by each water user located beyond the territorial boundaries of the city may be determined by special contract.

(D) The minimum rates established pursuant to § 52.51 of this chapter shall begin to accrue after connection of the service pipe with the curb stop box.

(E) A meter shall be installed on the water valve in the house and a remote register outside regardless of whether inside piping is connected.

(F) In the event a water customer elects to discontinue the use of the municipal water, the regular or minimum charge shall continue until the date as service is disconnected at the curb box.

Penalty, see § 10.99

§ 52.54 PAYMENT OF CHARGES; LATE PAYMENT; COLLECTION.

(A) Any prepayment or overpayment of charges may be retained by the city and applied on subsequent charges.

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(B) If a monthly service charge is not paid when due, then a penalty of 10% shall be added thereto.

(C) In the event a user fails to pay his or her water user fee within a reasonable time following discontinuance of service (a time period not to exceed 60 days), the fee shall be certified by the City Clerk and forwarded to the County Auditor for collection as provided for in Ch. 54 of this code of ordinances.

(Prior Code, § 172.18) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 52.70 SUPERVISION BY UTILITIES SUPERINTENDENT; LICENSING.

(A) All piping connections from the curb stop box to house supply piping shall be made under the supervision of a licensed plumber subject to inspection by the Utilities Superintendent. The piping connection made to the curb stop box on the house side shall be inspected by the Utilities Superintendent. The water meter installation shall be inspected, tested and the meter sealed by the Utilities Superintendent.

(B) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first obtaining a license to carry on the occupation from the city. A master plumber licensed by the state under the provisions of M.S. § 326B.46, as it may be amended from time to time, is exempt from the provisions of this section. A person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

(1) The applicant shall file with the City Clerk evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. Evidence of insurance required pursuant to M.S. § 326B.46, subd. 2, as it may be amended from time to time, shall satisfy this requirement.

(2) The applicant shall file with the City Clerk a surety bond guaranteeing the conformance and compliance of work with this chapter. The bond shall be in the amount of \$2,000. The city shall hold the bond for one year following the license period. Failure to comply with provisions and requirements of this chapter shall result in forfeiture of the bond. The applicant may comply with the requirements of M.S. § 326B.46, subd. 2, as it may be amended from time to time, in lieu of these requirements.

(3) Applications for licenses shall be filed with the City Clerk and shall be reviewed and subject to approval of the city.

(4) Any installation, construction, alteration of a water connection by a licensee in violation of any provision of this chapter or refusal on the part of a licensee to correct the defective work shall be cause for

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revocation of or refusal to renew a license. This license may be revoked or refused for renewal by the city at any time for cause which shall be documented in writing.

(C) All licenses required in this section shall be renewable annually. Applications for licenses shall be made annually on a form furnished by the City Clerk. Licenses shall be in effect from January 1 to December 31 of the same year. The license fee shall be established pursuant to § 52.51 of this chapter.

(D) Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing by the City Council to show cause why the license should not be revoked or refused. Notice of the time, place and purpose of the hearing shall be in writing.

§ 52.71 POWERS AND AUTHORITY OF INSPECTORS.

The Utilities Superintendent and other duly authorized employees of the city, upon proper identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 of this code of ordinances before entering the property, except in emergency situations.

§ 52.72 DISCONTINUANCE OF SERVICE.

Water service may be shut off at any connection as provided for in Ch. 54 of this code of ordinances.

§ 52.73 AUTHORIZED EMPLOYEES TO TURN WATER ON AND OFF.

No person, except an authorized city employee, shall turn on or off any water supply at the curb stop box. Penalty, see § 10.99

§ 52.74 LIABILITY FOR EXPENSE, LOSS OR DAMAGE.

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 city by reason of the violation.

CHAPTER 53: STORM WATER MANAGEMENT

Section

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§ 53.01 FINDINGS.

The city hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewer, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

(Prior Code, § 172.25) (Ord. 2006-1, passed 2-22-2006)

§ 53.02 PURPOSE.

The purpose of this chapter is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by poorly-sited development or incompatible activities by

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regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

(Prior Code, § 172.26) (Ord. 2006-1, passed 2-22-2006)

§ 53.03 SCOPE AND EFFECT.

(A) *Applicability.* Every applicant for subdivision approval, PUD approval or commercial, multiple-family residential or industrial permit to allow land disturbing activities must submit a surface (storm) water management plan to the city. No subdivision approval or permit to all land disturbing activities, including, but not limited to, mining, excavation, filling and grading shall be issued until approval of the surface (storm) water management plan or a waiver of the approval requirement has been obtained in conformance with the provisions of this subchapter. The provisions of this chapter apply to all land, public or private, located within the city.

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

- (1) Any part of a subdivision if a plat for the subdivision has been approved by the city on or before the effective date of this chapter;
- (2) Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this chapter;
- (3) A lot for which a zoning permit has been approved on or before the effective date of this subchapter;
- (4) Installation of a fence, sign, telephone and electric poles and other kinds of posts or poles; and/or
- (5) Emergency work to protect life, limb or property.

(C) The city, upon recommendation of the Planning Commission, may waive any requirement of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in this chapter. The city may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct physical improvements, facilities, property and/or easements as may be necessary to adequately meet said standards and requirements.

(Prior Code, § 172.27) (Ord. 2006-1, passed 2-22-2006)

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§ 53.04 SURFACE (STORM) WATER MANAGEMENT PLAN APPROVAL PROCEDURES.

(A) A written application for surface (storm) water management plan approval, along with the proposed surface (storm) water management plan, shall be filed with the City Clerk and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter. Prior to applying for approval of a surface (storm) water management plan, an applicant may have the surface (storm) water management plans reviewed by the City Engineer.

(B) Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the city and shall be accompanied by a receipt evidencing payment of fees (if applicable) for processing and approval, as set forth in § 53.07(E) of this chapter, and a bond when required by § 53.07(D) of this chapter in the amount to be calculated in accordance with that section. Drawings shall be prepared to scale appropriate to the site of the project and suitable for the review to be performed.

(Prior Code, § 172.28) (Ord. 2006-1, passed 2-22-2006)

§ 53.05 SURFACE (STORM) WATER MANAGEMENT PLAN STANDARDS.

(A) When possible existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water runoff before discharge to public waters.

(B) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(C) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference should be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(D) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with applicable local, state and federal standards, including the *State of Minnesota Storm Water Manual*, dated November 2005 ([http://www.pca.state.mn.us/water/storm water/storm water-manual.html](http://www.pca.state.mn.us/water/storm%20water/storm%20water-manual.html)).

(E) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Prior Code, § 172.29) (Ord. 2006-1, passed 2-22-2006)

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§ 53.06 SURFACE (STORM) WATER MANAGEMENT PLAN REQUIRED.

At a minimum, the surface (storm) water management plan shall contain the following information:

(A) *Existing site map.* A map of existing site conditions showing the site and immediately adjacent areas, including:

- (1) The name and address of the applicant; a legal description of the property directly associated with the request; north point; date; scale of drawing; and number of sheets;
- (2) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;
- (3) Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet;
- (4) A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the state's Department of Natural Resources, the state's Pollution Control Agency and/or the United States Army Corps of Engineers;
- (5) Location and dimensions of existing surface (storm) water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate surface (storm) water is conveyed from the site, identifying the receiving stream, river, public water or wetland and setting forth those areas of the unaltered site where surface (storm) water collects;
- (6) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable; and
- (7) Vegetative cover and clearly delineating any vegetation proposed for removal.

(B) *Site construction plan.* A site construction plan including:

- (1) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
- (2) Locations and estimated dimensions of all temporary soil or dirt stockpiles;

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- (3) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter;
 - (4) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter; and
 - (5) Provisions for maintenance of the construction site erosion control measures during construction.
- (C) *Plan of final site conditions.* A plan of final site conditions on the same scale as the existing site map showing the site changes including:
- (1) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
 - (2) A drainage plan of the developed site delineating in which direction and at what rate surface (storm) water will be conveyed from the site and settling forth the areas of the site where surface (storm) water will be allowed to collect;
 - (3) The proposed size, alignment and intended use of any structures to be erected on the site;
 - (4) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
 - (5) Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.
- (Prior Code, § 172.30) (Ord. 2006-1, passed 2-22-2006)

§ 53.07 PLAN REVIEW PROCEDURE.

- (A) *Process.* Surface (storm) water management plans meeting the requirements of § 53.04 of this chapter shall be submitted by the City Clerk who shall consult with the City Engineer or designee for review in accordance with the standards of § 53.05 of this chapter. The Planning Commission shall recommend approval, recommend approval with conditions or recommend denial of the surface (storm) water management plan to the City Council. Following Planning Commission action, the surface (storm) water management plan shall be submitted to the City Council at its next available meeting. City Council action on the surface (storm) water management plan must be accomplished within 60 days following the date the completed application for approval is filed with the City Clerk.
- (B) *Duration.* Approval of a plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval the applicant makes a written request to the City Clerk for an extension of time to commence construction setting forth the reasons for the requested extension, the city may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged

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by the City Clerk within 15 days. The City Clerk, after consulting with the City Engineer, shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

(C) *Approval.*

(1) A surface (storm) water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this chapter are met.

(2) Such conditions may, among other matters, limit the size, kind or character of the proposed development; require the construction of structures, drainage facilities, storage basins and other facilities; require replacement of vegetation; establish required monitoring procedures; stage the work over time; require alternation of the site design to ensure buffering; and require the conveyance to the city or other public entity of certain lands or interests therein.

(D) *Performance bond.* Prior to approval of any surface (storm) water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easement, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended. The adequacy, conditions and acceptability of any agreement and bond shall be determined by the City Council or any official of the city, as may be designated by resolution of the City Council.

(E) *Fees.* All applications for surface (storm) water management plan approval shall be accompanied by a processing and approval fee, if applicable, and as specified by the City Council, through resolution. (Prior Code, § 172.31) (Ord. 2006-1, passed 2-22-2006)

§ 53.08 SITE DEWATERING.

(A) Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls, as appropriate.

(B) Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

(Prior Code, § 172.32) (Ord. 2006-1, passed 2-22-2006)

§ 53.09 WASTE AND MATERIAL DISPOSAL.

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

(Prior Code, § 172.33) (Ord. 2006-1, passed 2-22-2006)

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§ 53.10 TRACKING.

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

(Prior Code, § 172.34) (Ord. 2006-1, passed 2-22-2006)

§ 53.11 DRAIN INLET PROTECTION.

All surface (storm) drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards, and specifications contained in the *Minnesota Storm Water Manual*, dated November 2005.

(Prior Code, § 172.35) (Ord. 2006-1, passed 2-22-2006)

§ 53.12 SITE EROSION CONTROL.

(A) The following criteria (divisions (A) (1) through (A) (4) below) apply to construction activities that result in runoff on and/or leaving the site.

(1) Channeled runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, if practical. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

(2) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(3) Runoff from the entire disturbed area on the site shall be controlled by meeting either divisions (A)(3)(a) and (A)(3)(b) or (A)(3)(a) and (A)(3)(c) below.

(a) All disturbed ground left inactive for 14 or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.

(b) For sites with more than five acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(c) For sites with less than five acres disturbed at one time, silt fences, straw bales or equivalent control measures shall be laced along all side slope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce

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sediment reaching the channel. The use of silt fences, straw bales or equivalent control measures must include a maintenance and inspection schedule.

(4) Any soil or dirt storage piles containing more than 20 cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or drainage channel. If remaining for more than 14 days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than 14 days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the surface (storm) drain inlets must be protected with straw bale or other appropriate filtering barriers.

(Prior Code, § 172.36) (Ord. 2006-1, passed 2-22-2006)

§ 53.13 SURFACE (STORM) WATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES.

(A) (1) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all surface (storm) water management facilities deemed necessary by the city and/or City Engineer to manage increased runoff so that the two-year, ten-year and 100-year storm peak discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.

(2) An applicant may also make an in-kind or monetary contribution to the development and maintenance of community surface (storm) water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

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

(C) The following surface (storm) water management practices shall be investigated in developing a surface (storm) water management plan:

(1) Natural infiltration of precipitation on-site, if located outside of areas considered sensitive to ground water contamination;

(2) Flow rate reduction by use of open vegetated swales and natural depressions;

(3) Surface (storm) water retention facilities; and

(4) Surface (storm) water detention facilities. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in division (C)(1) above. The applicant shall provide justification for the method selected.

(Prior Code, § 172.37) (Ord. 2006-1, passed 2-22-2006)

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§ 53.14 DESIGN STANDARDS FOR DETENTION FACILITIES.

Surface (storm) water detention facilities constructed in the city shall be designed according to standards approved by the City Engineer.

(Prior Code, § 172.38) (Ord. 2006-1, passed 2-22-2006)

§ 53.15 MODELS/METHODOLOGIES.

(A) Hydrologic models and design methodologies used for the determination of runoff and analysis of surface (storm) water management structures shall be approved by the City Engineer.

(B) Plan, specification and computations for surface (storm) water management facilities submitted for review shall be sealed and signed by a registered professional engineer.

(C) All computations shall appear on the plans submitted for review, unless otherwise approved by the City Engineer.

(Prior Code, § 172.39) (Ord. 2006-1, passed 2-22-2006)

§ 53.16 WATERSHED MANAGEMENT AND GROUND WATER MANAGEMENT PLANS.

Surface (storm) water management plans shall be consistent with adopted watershed management plans and ground water management plans prepared in accordance with M.S. §§ 123B.231 and 103B.255, respectively, as they may be amended from time to time, and as approved by the local watershed authority as required by state law.

(Prior Code, § 172.40) (Ord. 2006-1, passed 2-22-2006)

§ 53.17 EASEMENTS.

If a surface (storm) water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

(Prior Code, § 172.41) (Ord. 2006-1, passed 2-22-2006)

§ 53.18 SURFACE (STORM) WATER DEVELOPMENT FEES.

Following approval of a surface (storm) water management plan, applicants shall pay to the city a surface (storm) water development fee based upon the square footage of the project's net developable property. **NET DEVELOPABLE PROPERTY** is defined as the gross land area minus the streets and other land area dedicated to the public. The per square foot fee shall be set by the City Council and adjusted from time to time by resolution. The city, in its sole discretion, may allow the applicant to offset the storm water fee, the

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cost of construction or maintenance of community surface (storm) water management facilities designed to serve multiple land disturbing and development activities that the developer paid for.
(Prior Code, § 172.42) (Ord. 2006-1, passed 2-22-2006)

CHAPTER 54: RATES AND CHARGES

Section

- 54.01 Generally
- 54.02 Collection of charges
- 54.03 Disconnection for late payment
- 54.04 Cold weather rule
- 54.05 Delinquent charges

§ 54.01 GENERALLY.

(A) The monthly charge for water, sewer services and for collection, removal and disposal of garbage and trash from residences and businesses within the corporate limits of the city shall be as established by the city.

(B) All accounts shall be carried in the name of the owner who personally, or by his or her authorized agent, applied for such service. The owner shall be liable for water and sewer services supplied to the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property.

§ 54.02 COLLECTION OF CHARGES.

The charges fixed herein for water, sewer services and for collection, removal and disposal of all garbage and trash shall be entered in their respective amounts on the utility bill. The city may discontinue all utility services, including water, sewer and garbage and trash services, for failing to pay any assessed charges and until the charges have been paid in full under conditions and procedures detailed in § 54.03 of this chapter.

§ 54.03 DISCONNECTION FOR LATE PAYMENT.

(A) It is the policy of the city to discontinue utility service to customers by reason of non-payment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

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- (1) All bills are due and payable on or before the date set forth on the bill;
 - (2) If any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for non-payment; and
 - (3) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.
- (B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.
- (C) When it becomes necessary for the city to discontinue utility service to a customer for non-payment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge as established by the city.

§ 54.04 COLD WEATHER RULE.

Pursuant to M.S. § 216B.097, as it may be amended from time to time, 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 at or below 50% of the state median household income 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 Clerk shall, between August 15 and October 15 of each year, notify all residential customers of these provisions.

Penalty, see § 10.99

Rates and Charges

§ 54.05 DELINQUENT CHARGES.

As provided for by M.S. § 444.075, subd. 3e, as it may be amended from time to time, the City Clerk, annually or more frequently as directed by Council, shall prepare a list of delinquent charges to be certified for payment as taxes. The list of delinquent charges shall be delivered to the City Council for adoption. All persons who have delinquent charges included in the list shall be notified and given a chance to appear before the Council before the list is adopted. In the event the delinquency involves rental property, notice shall be given to the record owner of the property in addition to the tenant or other parties in possession and he or she given a chance to appear before the Council. Upon adoption, the Clerk shall certify the unpaid charges to the County Auditor for collection as other taxes are collected. This action may be optional or subsequent to taking other legal action to collect delinquent charges, and shall not preclude the city or its agents from recovery of the delinquent charges and interest under any other available remedy, and shall not preclude the disconnection for late payment provided for in this chapter.

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TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC REGULATIONS

71. PARKING REGULATIONS

72. SNOWMOBILES

73. RECREATIONAL AND OTHER VEHICLES

74. BICYCLES, ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS

CHAPTER 70: TRAFFIC REGULATIONS

Section

General Provisions

- 70.01 State highway traffic regulations adopted by reference
- 70.02 Trucks prohibited on certain streets
- 70.03 Stop intersections
- 70.04 Through streets and one-way streets
- 70.05 Turning restrictions
- 70.06 Safety considerations
- 70.07 Excessive noise
- 70.08 Exhibition driving prohibited
- 70.09 Cruising prohibited
- 70.10 Motor vehicle noise
- 70.11 Pedestrian crossings
- 70.12 Crossings for seniors or disabled persons

Parades

- 70.20 Definitions
- 70.21 Permit required
- 70.22 Application for permit
- 70.23 Standards for issuance of permit
- 70.24 Notice of rejection of permit application
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- 70.28 Contents of permit
- 70.29 Duties of permittee
- 70.30 Public conduct during parades
- 70.31 Revocation of permit

GENERAL PROVISIONS

§ 70.01 STATE HIGHWAY TRAFFIC REGULATIONS ADOPTED BY REFERENCE.

(A) The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Ch. 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this section as completely as if set out in full herein.

(B) The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.

§ 70.02 TRUCKS PROHIBITED ON CERTAIN STREETS.

(A) The City Council, by resolution, may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The Public Works Superintendent shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.

(B) The weight restrictions established in division (A) above shall not apply to city or emergency vehicles, public school buses, garbage and refuse trucks making regular collections and are under contract with the city, recycling trucks used exclusively for collection of recycling materials pursuant to a city mandate to provide curbside recycling and implements of husbandry operated in compliance with M.S. § 169.801, as it may be amended from time to time, and city, county and state road authority vehicles engaged in snow and ice removal or flood control operations on behalf of a state or local government, nor shall the weight restrictions in division (A) above apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.

(C) Pursuant to M.S. § 169.84, as it may be amended from time to time, the gross weight of any vehicle or combination of vehicles driven onto or over a bridge on any city street or highway shall not exceed the safe capacity of the bridge, as may be indicated by warning posted on the bridge or the approaches thereto.

Traffic Regulations

(D) Pursuant to M.S. §§ 169.86, 169.862 and 169.865, as they may be amended from time to time, the City Clerk may issue a permit for heavier loads to travel on streets where otherwise restricted. The City Clerk may issue such a permit upon applicant provision of adequate insurance, execution of a written agreement to pay the city costs of any repairs the roadway, curbs, ditches and right-of-way necessitated by the permittee's damage to the roadway and to defend and indemnify the city against all claims related to the permittee's use of the roadway, and posting of a bond or other financial security in an amount adequate to cover city expenses, including, but not limited to, repair costs related to any damage to the road. Any person aggrieved by a permit denial may appeal the denial to the City Council within 30 days of such denial. Permits issued under this provision are good for five consecutive business days. No person, corporation or other entity may obtain more than three permits per year. The permit fee shall be set by the city. (Prior Code, § 173.01) Penalty, see § 10.99

§ 70.03 STOP INTERSECTIONS.

Pursuant to M.S. § 169.04, as it may be amended from time to time, the city may designate intersections as a stop intersection and require all vehicles to stop at one or more entrances to those intersections. The city shall post signs at those designated intersections, giving notice of the designation as a stop intersection. It shall be unlawful for any person to fail to obey the markings or signs posted under this section. Penalty, see § 10.99

§ 70.04 THROUGH STREETS AND ONE-WAY STREETS.

Pursuant to M.S. § 169.04, as it may be amended from time to time, the City Council, by resolution, may designate any street or portion of a street as a through street or one-way street where necessary to preserve the free flow of traffic or to prevent accidents. No trunk highway shall be so designated unless the consent of the Commissioner of Transportation to the designation is first secured. The city shall cause appropriate signs to be posted at the entrance to designated streets. It shall be unlawful for any person to fail to obey the markings or signs posted under this section. Penalty, see § 10.99

§ 70.05 TURNING RESTRICTIONS.

(A) (1) Pursuant to M.S. § 169.04, as it may be amended from time to time, the City Council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to the designation is first obtained.

(2) The city shall mark by appropriate signs any intersection so designated.

(3) No person shall turn a vehicle at any intersection contrary to the direction on those signs.

Traffic Regulations

(B) Except at intersections, and then only if not posted otherwise, it shall be unlawful for any person operating a motor vehicle on any street to cross the center of the street for the purpose of parking on the side of the street opposite the original direction of travel.

(C) It shall be unlawful for any person operating a motor vehicle on any street to back up or drive from a parked position and commence travel in the opposite direction from which the motor vehicle faced when parked.

Penalty, see § 10.99

§ 70.06 SAFETY CONSIDERATIONS.

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

NON-PASSENGER AREAS. Those parts of a motor vehicle other than areas designed for seating passengers by the vehicle manufacturer or areas converted to passenger seating with properly installed seating and safety belts.

(B) Except in a real emergency or during an authorized public parade, exhibition or event, no person shall drive or ride on or in a non-passenger area of a motor vehicle.

(C) Except when making lawful arm traffic signals, no person shall extend any part of his or her person outside the window, top, side, front or back of the motor vehicle while in operation.

(D) Any person violating any provision of this section shall be guilty of a petty misdemeanor. No person may be prosecuted under this section unless issued a warning citation by an authorized law enforcement officer for a previous unrelated occurrence involving an alleged violation of this section.

(Prior Code, § 173.02) (Ord. 112, passed 8-29-1988) Penalty, see § 10.99

§ 70.07 EXCESSIVE NOISE.

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

LIGHT-MOTOR VEHICLES. Any automobile, van, motorcycle, motor-driven cycle, motor scooter, go-cart, minibike, trail bike, neighborhood electric vehicle, golf cart, mini truck, all-terrain vehicle, truck with a gross vehicular weight of less than 10,000 pounds or low power vehicle.

LOW POWER VEHICLE. A vehicle with a gas, electric or battery powered engine that may achieve a maximum vehicle speed of 35 mph.

Traffic Regulations

(B) It shall be unlawful for any person to operate, or cause to operate, or use a light-motor vehicle in a manner as to cause, or allow to be caused, excessive noise levels as a result of unreasonable rapid accelerations, deceleration, revving of engine, squealing of tires, honking of horns or as a result of the operation of audio devices including, but not limited to, radios, phonograph, tape players, compact disc players or any other sound-amplifying device on or from the light-motor vehicle.

(C) No person shall operate, or cause to operate, or use a light-motor vehicle in violation of the noise standards contained in Minn. Rules parts 7030.1050 and 7030.1060, as they may be amended from time to time.

(D) No person shall operate, or cause to operate, or use a light-motor vehicle that discharges its exhaust other than through a muffler or other device that effectively prevents loud or explosive noises. No person shall operate, or cause to operate, or use a light-motor vehicle whose exhaust system has been modified, altered or repaired in any way, including the use of a muffler cut-out or by-pass, that amplifies or otherwise increases noise above that emitted by the light-motor vehicle as originally equipped.

(E) The following are exempted from the provisions of this section:

- (1) Sound emitted from sirens of authorized emergency vehicles;
- (2) Burglar alarms on light-motor vehicles of the electronic signaling type which also transmit an audible signal to a receiver which can be carried by the owner or operator of the vehicle; and
- (3) Celebrations on Halloween and other legal holidays and celebrations in connection with duly authorized parades.
Penalty, see § 10.99

§ 70.08 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. Unreasonable squealing or screeching sounds emitted by tires or the unreasonable throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

Penalty, see § 10.99

§ 70.09 CRUISING PROHIBITED.

(A) As used in this section, *CRUISING* means the operation of a motor vehicle as defined in M.S. § 169.011, subd. 42, as it may be amended from time to time, past a traffic control point as determined by a peace officer on a street in an area designated “No Cruising Zone” by City Council resolution four or more times between the hours of 9:00 p.m. and 3:30 a.m.

Traffic Regulations

(B) The passing of a traffic control point under the conditions previously stated shall constitute unnecessary repetitive driving and is a violation of this section.

(C) The following use of vehicles shall constitute valid exceptions to this prohibition: taxicabs for hire, buses, authorized emergency vehicle, vehicles used by or under contract with any governmental jurisdiction, any vehicle being used to conduct legitimate business activities.

(D) This section may be enforced only in an area that has been posted as a **No Cruising Zone**.@ Signs shall be posted at the beginning and the end of any public street, alley or highway, or portion thereof which is a no cruising zone.

§ 70.10 MOTOR VEHICLE NOISE.

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

ABNORMAL OR EXCESSIVE NOISE.

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

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

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

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

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

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

Traffic Regulations

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

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

Penalty, see § 10.99

§ 70.11 PEDESTRIAN CROSSINGS.

Pursuant to M.S. § 169.2151, as it may be amended from time to time, the city is authorized to designate pedestrian safety crossings on exclusive city streets where pedestrian safety considerations require extra time for pedestrian crossing in addition to the time recommended under the *Minnesota Manual on Uniform Traffic-Control Devices* for pedestrian signals. The city may provide for timing of pedestrian signals for such crossings, consistent with the recommendations of the uniform manual for pedestrian signal timing at senior citizen and disabled pedestrian crossings. The location of such crossings may be designated by resolution.

§ 70.12 CROSSINGS FOR SENIORS OR DISABLED PERSONS.

Pursuant to M.S. § 169.215, as it may be amended from time to time, the city may designate a crossing for senior citizens or disabled persons on any exclusive city street in the vicinity of a senior citizen housing project, senior citizen nursing home or residential care facility for disabled persons on the basis of an engineering and traffic investigation prescribed by the Commissioner and subject to the uniform specifications adopted by the state's Commissioner of Transportation.

PARADES

§ 70.20 DEFINITIONS.

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

PARADE. Any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display in or on any street, sidewalk, park or other public place in the city.

Traffic Regulations

PARADE PERMIT. A permit required by this subchapter.

PARKING LOT. Any paved or unpaved area used by a place of business or shopping center for the parking of vehicles of their customers, but shall not include those operated for hire.

§ 70.21 PERMIT REQUIRED.

(A) No person or persons shall engage or participate in, aid, form or start any parade unless a parade permit has been obtained from the City Clerk or other authorized city official.

(B) This subchapter shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities; provided that, the conduct is under the immediate direction and supervision of the proper school authorities; or

(3) A governmental agency acting within the scope of its functions.

Penalty, see § 10.99

§ 70.22 APPLICATION FOR PERMIT.

(A) *Generally.* A person seeking issuance of a parade permit shall file an application with the City Clerk.

(B) *Filing period.* The application for a parade permit shall be filed not less than 72 hours, but not more than 60 days before the date on which it is proposed to conduct the parade. Failure to file an application 72 hours in advance will not result in automatic denial of the permit; provided that, the applicant shows reasonable grounds why the application could not be filed 72 hours in advance.

(C) *Required information.* The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct the parade;

(2) If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;

(3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;

Traffic Regulations

- (4) The date when the parade is to be conducted;
- (5) The route to be traveled, the starting point and the termination point;
- (6) The approximate number of persons, animals and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;
- (7) The hours when the parade will start and terminate;
- (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed;
- (9) The location by street of any assembly area for the parade;
- (10) The time at which units of the parade will begin to assemble at any assembly area or areas;
- (11) The interval of space to be maintained between units of the parade;
- (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf; and
- (13) Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.

(D) *Fee amount.* There shall be paid at the time of filing an application for a parade permit a fee in an amount as established by the city. In addition, the applicant must provide proof of a valid insurance policy in the amount of \$500,000 per individual claim and \$1,500,000 for all claims arising from the same event that names and agrees to defend and indemnify the city from any and all claims arising from the parade. Penalty, see § 10.99

§ 70.23 STANDARDS FOR ISSUANCE OF PERMIT.

The City Clerk shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:

- (A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

Traffic Regulations

(C) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;

(D) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire; and

(E) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

Penalty, see § 10.99

§ 70.24 NOTICE OF REJECTION OF PERMIT APPLICATION.

If the City Clerk disapproves the application, he or she shall mail to the applicant within the three regular business days after the date on which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.

§ 70.25 APPEAL PROCEDURE WHEN PERMIT DENIED.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

§ 70.26 ALTERNATIVE PERMIT.

(A) The City Clerk or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance.

(B) An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

§ 70.27 NOTICE TO CITY AND OTHER OFFICIALS WHEN PERMIT ISSUED.

Immediately on the issuance of a parade permit, a copy thereof shall be sent to the licensed peace officer. (Prior Code, § 173.03)

Traffic Regulations

§ 70.28 CONTENTS OF PERMIT.

Each parade permit shall state the following information:

- (A) Starting time;
 - (B) Minimum speed;
 - (C) Maximum speed;
 - (D) Maximum interval of space to be maintained between the units of the parade;
 - (E) The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade;
 - (F) The maximum length of the parade in miles or fractions thereof; and
 - (G) Other information as is reasonably necessary to the enforcement of this subchapter.
- Penalty, see § 10.99

§ 70.29 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.

Penalty, see § 10.99

§ 70.30 PUBLIC CONDUCT DURING PARADES.

(A) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle, except a police car or other emergency vehicle, shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

Traffic Regulations

(C) *Parking on parade route.* The Police Chief or other authorized city official shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or other public thoroughfare or part thereof constituting a part of the route of a parade. Signs shall be posted to the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street or other public thoroughfare unless signs have been posted in accordance with this section.

Penalty, see § 10.99

§ 70.31 REVOCATION OF PERMIT.

The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

CHAPTER 71: PARKING REGULATIONS

Section

- 71.01 No parking where posted
- 71.02 Limited parking
- 71.03 Other parking restrictions
- 71.04 Declaration of snow emergency; parking prohibited
- 71.05 Parking certain semi-trailers or tractors on public streets prohibited
- 71.06 Overnight parking
- 71.07 Repairing of vehicles
- 71.08 Prohibiting parking areas in front yards in residential zones
- 71.09 Impoundment
- 71.10 Prima facie violation

§ 71.01 NO PARKING WHERE POSTED.

(A) No person shall stop, stand or park a vehicle upon the public streets of the city at any place where official signs or where appropriate devices, marks or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibit these acts.

(B) (1) Pursuant to M.S. § 168B.035, as it may be amended from time to time, the City Police Chief, if any, or the City Council may appoint as many parking enforcement officers as are needed to enforce the provisions of this chapter.

(2) The parking enforcement officers shall be subordinate to the Chief of Police, if there is one, or the City Clerk.

(3) A ***PARKING ENFORCEMENT OFFICER*** is an individual whose services are utilized by a law enforcement agency to provide parking enforcement and administrative or clerical assistance and who is not a sworn and licensed police officer.

(4) A parking enforcement officer's duties shall not include enforcement of the general criminal laws of the state, and the parking enforcement officer does not have full powers of arrest or authorization to carry a firearm on duty.

Penalty, see § 10.99

Parking Regulations

§ 71.02 LIMITED PARKING.

No person shall stop, stand or park a vehicle upon the public streets of the city where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

Penalty, see § 10.99

§ 71.03 OTHER PARKING RESTRICTIONS.

(A) The City Council may, by resolution, order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

(B) A No parking@ signs may be placed by city employees on any street of the city to permit construction, repair, snow removal, street cleaning or similar temporary activities. While the signs are in place, it shall be unlawful to park any vehicle on the streets or portion thereof so posted.

(C) It shall be unlawful for a person to park in an area designated by Council resolution and posted as a fire lane.

(D) It shall be unlawful for a person to park a vehicle or permit it to stand, whether attended or unattended, on an alley within the city; provided that, this does not prohibit the parking of vehicles for less than one hour on an alley for the purpose of access to abutting property for loading or unloading merchandise or other material when parking on the property itself is not available.

(E) It shall be unlawful for a person to park a motor vehicle in an area designated by posted signs pursuant to Council resolution for certain types of vehicles, unless the motor vehicle is one of the types of vehicles specifically permitted.

(F) Every vehicle parked upon any street with a curb shall be parked parallel to the curb, unless angle parking is designated by appropriate signs or markings. On streets with a curb, the right-hand wheels of any vehicle parked shall be within one foot of the curb. On streets without a curb, the vehicle shall be parked to the right of the main traveled portion of the street and parallel to it and in such a manner as not to interfere with the free flow of traffic, unless angle parking is designated by appropriate signs or markings.

Penalty, see § 10.99

Parking Regulations

§ 71.04 DECLARATION OF SNOW EMERGENCY; PARKING PROHIBITED.

(A) *No parking certain hours.* In order to facilitate snow removal from the public streets, from November 1 through April 1 of each year, no vehicle shall be parked on any public street in the city between the hours of 2:00 a.m. and 6:00 a.m.

(B) *Vehicle removal.* The city may remove or cause to be removed any 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 maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid.

(Prior Code, § 173.10) (Ord. 4-2005, passed 11-30-2005) Penalty, see § 10.99

§ 71.05 PARKING CERTAIN SEMI-TRAILERS OR TRACTORS ON PUBLIC STREETS PROHIBITED.

No person shall park a semi-tractor or trailer, or any truck rated with a gross vehicle weight in excess of 10,000 pounds, in any area of the city zoned for residential use or other area designated by City Council resolution, except when the vehicle is parked in a completely enclosed garage.

Penalty, see § 10.99

§ 71.06 OVERNIGHT PARKING.

The following vehicles shall not be allowed to park on city streets for more than 48 hours: repair, delivery, rented vehicles with commercial plates and refuse and recycling haulers; or any other vehicle not registered as a passenger vehicle.

(Prior Code, § 173.11) Penalty, see § 10.99

§ 71.07 REPAIRING OF VEHICLES.

(A) Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on city streets; provided that, they can be accomplished within the same day and completed by 10:00 p.m.

(B) All other repairs shall be considered major repairs and shall not be permitted on any city street, unless the repairs are made within an enclosed structure allowed within the zoning district.

(C) Damage to city streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the city streets.

Parking Regulations

§ 71.08 PROHIBITING PARKING AREAS IN FRONT YARDS IN RESIDENTIAL ZONES.

(A) The construction, operation or maintaining a parking area, either paved or unpaved, in the front yard of any lot is prohibited in any area zoned for residential use. For the purpose of this section, **FRONT YARD** shall mean and include that area between the sidewalk, or street line in the event there is no sidewalk, and the front line of the principal building, extending in both directions to the side lot lines.

(B) Use of that portion of a vacant lot within 30 feet of the sidewalk lines for parking in an area zoned for residential use is prohibited.

(C) No person, being the owner or having control of any building, shall violate or fail to conform to any provision of this section, or fail to obey any lawful order of an officer charged with its enforcement. Each and every day on which any person continues to violate the provisions of this section, after having been notified of the violation, shall constitute a separate offense. This conviction shall not relieve any person from thereafter complying with the provisions of this section, and shall be sufficient cause to refuse further building or land use permits to the offender until a time as the orders have been complied with. A landlord is not responsible for a tenant's actions in regards to this section.

(Prior Code, § 173.12) Penalty, see § 10.99

§ 71.09 IMPOUNDMENT.

Any police officer or city appointed parking enforcement officer, appointed pursuant to M.S. § 168B.035, subd. 2, as it may be amended from time to time, may order the removal of 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, street improvements 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 chapter.

§ 71.10 PRIMA FACIE VIOLATIONS.

Pursuant to M.S. § 169.34, subd. 2, as it may be amended from time to time, the presence of any motor vehicle on any street when standing or parked in violation of this chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

CHAPTER 72: SNOWMOBILES

Section

- 72.01 Intent
- 72.02 Definitions
- 72.03 Application of traffic ordinances
- 72.04 Restrictions
- 72.05 Stopping and yielding
- 72.06 Persons under 18
- 72.07 Equipment
- 72.08 Unattended snowmobiles
- 72.09 Emergency operation permitted

§ 72.01 INTENT.

It is the intent of this chapter to supplement M.S. §§ 84.81 to 84.91, and M.S. Ch. 169, as these statutes may be amended from time to time, and Minn. Rules parts 6100.5000 through 6100.5800, as these rules may be amended from time to time, with respect to the operation of snowmobiles. These statutes and rules are incorporated herein by reference. This section is not intended to allow what the state statutes and rules prohibit, nor to prohibit what the state statutes and rules allow.

§ 72.02 DEFINITIONS.

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

DEADMAN THROTTLE or **SAFETY THROTTLE**. A device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

OPERATE. To ride in or on and control the operation of a snowmobile.

OPERATOR. Every person who operates or is in actual physical control of a snowmobile.

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

Snowmobiles

PERSON. Includes an individual, partnership, corporation, the state and its agencies and subdivision, and any body of persons, whether incorporated or not.

RIGHT-OF-WAY. The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

ROADWAY. The portion of a highway or street improved, designed or ordinarily used for vehicular travel.

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

STREET. A public thoroughfare, roadway, alley or trail used for motor vehicular traffic which is not an interstate, trunk, county-state aid or county highway.

§ 72.03 APPLICATION OF TRAFFIC ORDINANCES.

The provisions of Ch. 70 of this code shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which, by their nature, have no application. Penalty, see § 10.99

§ 72.04 RESTRICTIONS.

(A) It is unlawful for any person to enter, operate or stop a snowmobile within the limits of the city:

(1) On the roadway of any street, except the most right hand lane then available for traffic or as close as practicable to right hand curb or edge of the roadway, except when overtaking and passing another vehicle stopped in the lane or proceeding in the same direction, or in making a left turn. Snowmobiles may also be operated upon the outside slope of trunk, county-state aid and county highways where the highways are so configured within the corporate limits. The City Council may, pursuant to M.S. § 84.87, subd. 3, as it may be amended from time to time, adopt a resolution designating certain city streets as available for snowmobile operation and prescribe such time and speed limits as are necessary;

(2) On a public sidewalk provided for pedestrian travel;

(3) On boulevards within any public right-of-way;

(4) On private property of another without specific permission of the owner or person in control of the property;

(5) Upon any school grounds, except as permission is expressly obtained from responsible school authorities;

(6) On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council; in which case, the use shall be lawful, and snowmobiles may be driven in and out of those areas by the shortest route;

Snowmobiles

- (7) On streets as permitted by this chapter at a speed exceeding 15 mph; and
- (8) During the hours of 10:00 p.m. to 7:00 a.m., Sunday through Thursday, and 12:01 a.m. to 8:00 a.m. on other days closer than 100 feet from any residence. This provision is not intended to prohibit snowmobiles from operating on city streets during the hours specified herein.
- (B) It is unlawful for any person to operate a snowmobile within the limits of the city:
- (1) So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile; provided, that a disabled snowmobile may be towed to a private residence or a place of business where snowmobiles are repaired without the use of a rigid tow bar;
- (2) Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation; and/or
- (3) To intentionally drive, chase, run over or kill any animal.
(Prior Code, § 173.20) Penalty, see § 10.99

§ 72.05 STOPPING AND YIELDING.

No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

Penalty, see § 10.99

§ 72.06 PERSONS UNDER 18.

(A) No person under 14 years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets as permitted under this chapter and make a direct crossing of those streets only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued pursuant to M.S. § 84.872, as it may be amended from time to time.

Snowmobiles

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

Penalty, see § 10.99

§ 72.07 EQUIPMENT.

It is unlawful for any person to operate a snowmobile any place within the limits of the city unless it is equipped with the following:

(A) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on a snowmobile motor;

(B) Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation;

(C) A safety or so called deadman throttle in operating condition;

(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 at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions; and

(E) Reflective material at least 16 square inches on each side, forward of the handlebars and at the highest practical point on any towed object, so as to reflect lights at a 90-degree angle.

Snowmobiles

(Prior Code, § 173.21) Penalty, see § 10.99

§ 72.08 UNATTENDED SNOWMOBILES.

Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him or her.

Penalty, see § 10.99

§ 72.09 EMERGENCY OPERATION PERMITTED.

Notwithstanding any prohibitions in this chapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

CHAPTER 73: RECREATIONAL AND OTHER VEHICLES

Section

- 73.01 Purpose and intent
- 73.02 Definition
- 73.03 Operation requirements
- 73.04 Street crossings
- 73.05 Hours of operation
- 73.06 Minimum equipment requirements
- 73.07 Designation of public areas for use
- 73.08 Motorized golf carts, utility task vehicles and mini trucks
- 73.09 Mobility devices
- 73.10 Motorized foot scooters
- 73.11 Medium speed electric vehicles and neighborhood electric vehicles

§ 73.01 PURPOSE AND INTENT.

(A) (1) The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the city.

(2) This chapter is not intended to allow what state statutes prohibit, nor to prohibit what state statutes expressly allow.

(B) It is intended to ensure the public safety and prevent a public nuisance.

§ 73.02 DEFINITION.

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

ALL-TERRAIN VEHICLE. Any all-terrain vehicle as defined by M.S. § 84.92, as it may be amended from time to time.

Recreational and Other Vehicles

RECREATIONAL MOTOR VEHICLE. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes including, but not limited to, trail bike, off-highway motorcycle, as defined by M.S. § 84.787, subd. 7, as it may be amended from time to time, or other all-terrain vehicle, as defined by M.S. § 84.92, subd. 8, as it may be amended from time to time, utility task vehicle, motorized go-carts, hovercraft or motor vehicle licensed for highway operation which is being used for off-road recreational purposes, but not including golf carts defined by § 73.08 of this chapter, personal electric mobility devices defined by § 73.09 of this chapter, motorized foot scooters defined by § 73.10 of this chapter, neighborhood electric vehicles or medium speed electric vehicle as defined by § 73.11 of this chapter, and mini-trucks defined by § 73.08 of this chapter.

UTILITY TASK VEHICLE. A side-by-side, four-wheel drive, off-road vehicle that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cubic centimeters or less, and has a total dry weight of 1,800, but less than 2,600 pounds, as defined by M.S. § 169.045, as it may be amended from time to time.

§ 73.03 OPERATION REQUIREMENTS.

It is unlawful for any person to operate a recreational motor vehicle:

- (A) On private property of another without specific written permission of the owner of the property; (Written permission may be given by a posted notice of any kind or description, so long as it specifies the kind of vehicles allowed, that the owner, occupant or lessee prefers, such as by saying "Recreational Vehicles Allowed", "Trail Bikes Allowed", "All-Terrain Vehicles Allowed" or words substantially similar.)
- (B) On publicly-owned land, including schools, exclusive city streets, park property, playgrounds, recreation areas and golf courses, except where permitted by this chapter;
- (C) In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons;
- (D) On a public sidewalk or walkway provided or used for pedestrian travel;
- (E) At a place while under the influence of intoxicating liquor or narcotics or habit-forming drugs;
- (F) At a rate of speed greater than reasonable or proper under all the surrounding circumstances;
- (G) At any place 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;
- (H) On any public street, highway or right-of-way unless licensed and registered pursuant to state law;
- (I) To intentionally drive, chase, run over or kill any animal, wild or domestic;

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(J) By operating any recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others or in a manner so as to endanger or be likely to endanger any person or property or in excess of 25 mph on publicly-owned lands;

(K) Within 150 yards of any public recreational area or gathering of people. This provision does not apply to the occasional use of recreational motor vehicles on private property for the purpose of loading or unloading it from a trailer or for mechanically checking it;

(L) Without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight;

(M) Without a functioning stoplight if so equipped;

(N) Without a brake operational by either hand or foot;

(O) At a speed exceeding ten mph on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter;

(P) (1) A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the Commissioner of Public Safety.

(2) A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein without wearing a seat belt when such seat belt has been provided by the manufacturer.

(Q) (1) No person under 18 years of age shall operate a Class 1 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a Class 1 all-terrain vehicle carrying one passenger. For the purposes of this division (Q) (1), a **CLASS 1 ALL-TERRAIN VEHICLE** means an all-terrain vehicle that has a total dry weight of less than 1,200 pounds.

(2) No person under 18 years of age shall operate a Class 2 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a Class 2 all-terrain vehicle while carrying a passenger, or up to the number of passengers for which the vehicle was designed, whichever is greater. For the purposes of this division (Q) (2), a **CLASS 2 ALL-TERRAIN VEHICLE** means an all-terrain vehicle that has a total dry weight of 1,200 to 1,800 pounds.

(Prior Code, § 173.30) Penalty, see § 10.99

§ 73.04 STREET CROSSINGS.

(A) No person under 12 years of age operating the vehicles regulated herein shall make a direct crossing of any street, highway or public right-of-way or operate a vehicle regulated herein on a public street, highway or road right-of-way or operate a vehicle regulated herein on public lands or waters; except that, a person at least ten years of age, but under 12 years of age, may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.

(B) An all-terrain vehicle may make a direct crossing of a public road right-of-way; provided:

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- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;
- (2) The vehicle is brought to a complete stop before crossing the shoulder of main-traveled way of the road;
- (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;
- (4) In crossing a divided road, the crossing is made only at an intersection of the road with another public road; and
- (5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

Penalty, see § 10.99

§ 73.05 HOURS OF OPERATION.

Hours for use are 8:00 a.m. to 10:00 p.m.

Penalty, see § 10.99

§ 73.06 MINIMUM EQUIPMENT REQUIREMENTS.

(A) Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.

- (B) Brakes shall be adequate to control the movement of and to stop and hold under any conditions of operation.

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(C) At least one clear lamp shall be attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility.

Penalty, see § 10.99

§ 73.07 DESIGNATION OF PUBLIC AREAS FOR USE.

(A) The Council may designate areas and exclusive city streets for use of recreational motor vehicles by approval of a resolution by a majority of the members of the City Council. The areas designated may be changed from time to time by the City Council. Any area designated shall be published in the official newspaper of the city in a conspicuous place after the approval. If an area is changed, the change shall be published in like manner in the official newspaper of the city. An up-to-date map of any designated park areas open for recreational motor vehicle use shall be kept on file in the office of the City Clerk, who shall provide on request a copy of the map together with the applicable rules, regulations and this chapter to each person requesting the information from the city.

(B) Unless designated by the City Council as an area for recreational motor vehicles, the use on city park property and city streets shall be unlawful. Further, the use of city parks designated by the City Council shall be in accordance with all of the applicable provisions of this chapter.

Penalty, see § 10.99

§ 73.08 MOTORIZED GOLF CARTS, UTILITY TASK VEHICLES AND MINI TRUCKS.

(A) (1) No person shall operate a motorized golf cart, utility task vehicles or mini truck on streets, alleys, sidewalks or other public property without obtaining a permit as provided herein.

(2) Every application for a permit shall be made on a form supplied by the city and shall contain the following information:

- (a) The name and address of the applicant;
- (b) The nature of the applicant's physical handicap, if any;
- (c) Model name, make and year and number of the motorized golf cart, utility task vehicle or mini truck;
- (d) Current driver's license or reason for not having a current license; and
- (e) Other information as the city may require.

(3) The annual permit fee shall be as set forth by the city.

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- (4) Permits shall be granted for a period of one year and may be renewed annually January 1 to December 31.
- (5) No permit shall be granted or renewed unless the following conditions are met.
 - (a) The applicant must demonstrate that he or she currently holds or has held a valid Minnesota driver's license to operate a mini truck.
 - (b) The applicant may be required to submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart, utility task vehicle or mini truck on the roadways designated.
 - (c) The applicant must provide evidence of insurance in compliance with the provisions of state statutes concerning insurance coverage for the golf cart, utility task vehicle or mini truck.
 - (d) The applicant has not had his or her driver's license revoked as the result of criminal proceedings.
 - (6) Motorized golf carts, utility task vehicles and mini trucks are permitted to operate only on city streets, not state or federal highways, except to cross at designated intersections.
 - (7) Motorized golf carts, utility task vehicles or mini trucks may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.
 - (8) Motorized golf carts shall display the slow-moving vehicle emblem provided for in M.S. § 169.045, subd. 4, as it may be amended from time to time, when operated on designated roadways.
 - (9) Motorized golf carts, utility task vehicles or mini trucks shall be equipped with a wing-style rear view mirror to provide the driver with adequate vision from behind as required by M.S. § 169.70, as is may be amended from time to time.
 - (10)The operator of a motorized golf cart, utility task vehicle or mini truck may cross any street or highway intersecting a designated roadway.
 - (11)Every person operating a motorized golf cart, utility task vehicle or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Ch. 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts, utility task vehicles or mini trucks and except as otherwise specifically provided in M.S. § 169.045(7), as it may be amended from time to time.
 - (12)The City Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this section or M.S. Ch. 169, as it may be amended from time to time, or if there is evidence that the permit holder cannot safely operate the motorized golf cart or mini truck on the designated roadways.

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(13) The number of occupants in the golf cart, utility task vehicle or mini truck may not exceed the design occupant load.

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

DRIVER. The person driving and having physical control over the motorized golf cart, utility task vehicle or mini truck and being the permittee.

MINI TRUCK. As defined in M.S. § 169.011 Subd. 40a, as it may be amended from time to time, motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in 49 C.F.R. §§ 571.101 to 571.404, and successor requirements. A mini truck does not include: a neighborhood electric vehicle or a medium speed electric vehicle as defined by § 73.11 of this chapter; or a motor vehicle that meets or exceeds the regulations in 49 C.F.R. § 571.500, as it may be amended from time to time.

MOTORIZED GOLF CART. Any passenger conveyance being driven with three or four wheels with three or four low pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 800 pounds.

(C) Authorized city staff may operate city-owned motorized golf carts, utility task vehicles and mini trucks without obtaining a permit within the city on city streets, sidewalks, trails, rights-of-way and public property when conducting city business.

(D) A mini truck may be operated under permit on designated roadways if it is equipped with:

- (1) At least two headlamps;
- (2) At least two tail lamps;
- (3) Front and rear turn signal lamps;
- (4) An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;
- (5) A windshield;
- (6) A seat belt for the driver and front passenger; and
- (7) A parking brake.

Recreational and Other Vehicles

§ 73.09 OPERATION OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

(A) ***ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE*** means a self-balancing device with two non-tandem wheels, designed to transport not more than one person, and operated by an electric propulsion system that limits the maximum speed of the device to 15 mph.

(B) Except as otherwise provided by law, a person operating an electric personal assistive mobility device has the rights and responsibilities of a pedestrian.

(C) (1) An electric personal assistive mobility device may be operated on a bicycle path.

(2) No person may operate an electric personal assistive mobility device on a roadway, sidewalk or bicycle path at a rate of speed that is not reasonable and prudent under the conditions. Every person operating an electric personal assistive mobility device on a roadway, sidewalk or bicycle path is responsible for becoming and remaining aware of the actual and potential hazards then existing on the roadway or sidewalk and must use due care in operating the device.

(3) An electric personal assistive mobility device may be operated on a roadway only under the following circumstances:

(a) While making a direct crossing of a roadway in a marked or unmarked crosswalk;

(b) Where no sidewalk is available;

(c) Where a sidewalk is so obstructed as to prevent safe use;

(d) When so directed by a traffic control device or by a peace officer;

(e) Temporarily in order to gain access to a motor vehicle;

(f) An electric personal assistive mobility device may not be operated at any time on a roadway with a speed limit of more than 35 mph, except to make a direct crossing of the roadway in a marked crosswalk; and/or

(g) As provided in division (C) (7) below by Council resolution.

(4) An electric personal assistive mobility device may not be operated at any time while carrying more than one person.

(5) A person operating an electric personal assistive mobility device on a sidewalk must yield the right-of-way to pedestrians at all times. A person operating an electric personal assistive mobility device on a bicycle path must yield the right-of-way to bicycles at all times.

(6) An electric personal assistive mobility device may not be operated unless the device bears reflectorized material on the front, back and wheels, visible at night from 600 feet when illuminated by the lower beams of headlamps of a motor vehicle.

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(7) The City Council may, by resolution, designate exclusive city streets within its jurisdiction where the operation of electric personal assistive mobility devices is permissible; provided that, no street so designated has a speed limit of more than 35 mph.

§ 73.10 MOTORIZED FOOT SCOOTERS.

(A) **MOTORIZED FOOT SCOOTER** means a device with handlebars designed to be stood or sat upon by the operator, and powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion, and that has no more than two 12-inch or smaller diameter wheels and has an engine or motor that is capable of a maximum speed of 15 mph on a flat surface with not more than 1% grade in any direction when the motor is engaged. An electric personal assistive mobility device, a motorized bicycle, an electric-assisted bicycle or a motorcycle is not a motorized foot scooter.

(B) Operation of a motorized foot scooter on city bicycle paths, bicycle lanes, bicycle trails or bikeways is prohibited, except as provided in division (C) below.

(C) The City Council may, by resolution, designate specific bicycle paths, bicycle lanes, bicycle trails or bikeways as available for use by motorized foot scooters.

(D) Every person operating a motorized foot scooter shall have all rights and duties applicable to the operator of a bicycle, except in respect to those provisions relating expressly to motorized foot scooters and in respect to those provisions of law that, by their nature, cannot reasonably be applied to motorized foot scooters.

(E) No person may operate a motorized foot scooter upon a sidewalk, except when necessary to enter or leave adjacent property. No person may operate a motorized foot scooter that is carrying any person other than the operator.

(F) No person under the age of 12 years may operate a motorized foot scooter.

(G) No person under the age of 18 years may operate a motorized foot scooter without wearing properly fitted and fastened protective headgear that complies with standards established by the Commissioner of Public Safety.

(H) A motorized foot scooter must be equipped with a headlight and a taillight that comply with standards established by the Commissioner of Public Safety if the vehicle is operated under conditions when vehicle lights are required by law.

(I) A person operating a motorized foot scooter on a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway, except in the following situations:

(1) When overtaking and passing another vehicle proceeding in the same direction;

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(2) When preparing for a left turn, in which case the operator shall stop and dismount at the right-hand curb or right edge of the roadway, and shall complete the turn by crossing the roadway on foot, subject to restrictions placed by law on pedestrians; or

(3) When reasonably necessary to avoid impediments or conditions that make it unsafe to continue along the right-hand curb or edge, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards or narrow lanes.

Penalty, see § 10.99

§ 73.11 MEDIUM SPEED ELECTRIC VEHICLES AND NEIGHBORHOOD ELECTRIC VEHICLES.

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

MEDIUM SPEED ELECTRIC VEHICLE. An electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 mph on a paved level surface, is fully enclosed and has at least one door for entry, has a wheelbase of 40 inches or greater and a wheel diameter of ten inches or greater, and except with respect to maximum speed, otherwise meets or exceeds regulations in 49 C.F.R. § 571.500, and successor requirements.

NEIGHBORHOOD ELECTRIC VEHICLE. An electrically powered motor vehicle that has four wheels, and has a speed attainable in one mile of at least 20 mph, but not more than 25 mph on a paved level surface.

(B) Operation of neighborhood electric vehicles and medium speed electric vehicles on city streets is prohibited, except as provided in division (C) below.

(C) The City Council may, by resolution, designate exclusive city streets within its jurisdiction where the operation of neighborhood electric vehicles or medium speed electric vehicles is permissible; provided that, no street so designated has a speed limit of more than 35 mph.

(D) A neighborhood electric vehicle or a medium-speed electric vehicle may be operated on public streets and highways only if it meets all equipment and vehicle safety requirements in 49 C.F.R. § 571.500, as it may be amended from time to time.

(E) Authorized city staff may operate city-owned neighborhood electric vehicles and medium speed electric vehicles within the city on city streets, sidewalks, trails, rights-of-way and public property when conducting city business.

CHAPTER 74: BICYCLES, ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS

Section

Bicycles

- 74.01 Definition
- 74.02 Traffic laws apply
- 74.03 Manner and number riding
- 74.04 Hitching rides
- 74.05 Where to ride
- 74.06 Right-of-way; sidewalks
- 74.07 Carrying articles
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Roller Blades, Roller Skates, Roller Skis and Skateboards

- 74.25 Definitions
- 74.26 Unlawful acts
- 74.27 Right-of-way
- 74.28 Hours of use

- 74.99 Penalty

BICYCLES

§ 74.01 DEFINITION.

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

BICYCLE. Every device propelled solely by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices, and including any device generally recognized as a ***BICYCLE*** though equipped with two front or rear wheels.

§ 74.02 TRAFFIC LAWS APPLY.

Every person riding a bicycle on a street or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this traffic code, except as to special regulations in this chapter and except as to those provisions of this chapter which, by their nature, can have no application.

Bicycles, Roller Blades, Roller Skates, Roller Skis and Skateboards

§ 74.03 MANNER AND NUMBER RIDING.

(A) It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.

(B) No bicycle, including a tandem bicycle, cargo or utility bicycle or trailer, shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle; provided that, the seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel, or in a seat attached to the bicycle operator.

Penalty, see § 74.99

§ 74.04 HITCHING RIDES.

It is unlawful for any person riding upon any bicycle, coaster, roller skates, roller blades, skateboard, sled or toy vehicle to attach the same or himself or herself to any vehicle upon a street.

Penalty, see § 74.99

§ 74.05 WHERE TO RIDE.

(A) Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons riding bicycles upon a street shall not ride more than two abreast, except on paths or parts of streets set aside for the exclusive use of bicycles.

Penalty, see § 74.99

§ 74.06 RIGHT-OF-WAY; SIDEWALKS.

Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.

Penalty, see § 74.99

§ 74.07 CARRYING ARTICLES.

It is unlawful for any person operating a bicycle to carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

Penalty, see § 74.99

Bicycles, Roller Blades, Roller Skates, Roller Skis and Skateboards

§ 74.08 LIGHTING AND BRAKE EQUIPMENT.

(A) Every bicycle, when in use at night time, shall be equipped with, or its operator shall carry a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches on each side of the bicycle or its operator of white reflective material. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

(B) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Penalty, see § 74.99

§ 74.09 SALE WITH REFLECTORS.

It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed in § 74.08 of this chapter.

Penalty, see § 74.99

ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS

§ 74.25 DEFINITIONS.

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

BUSINESS DISTRICT. The part of the city so designated by Council resolution.

OPERATE. To ride on or upon or control the operation of roller blades, roller skates or a skateboard.

OPERATOR. Every person who operates or is in actual physical control of roller blades, roller skates or a skateboard.

ROLLER BLADES/ROLLER SKATES. A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.

Bicycles, Roller Blades, Roller Skates, Roller Skis and Skateboards

ROLLER SKIS. A pair of skis platformed with wheels attached which is intended to simulate skiing.

SKATEBOARD. A device for riding-upon, usually while standing, consisting of an oblong piece of wood, or of other composition, mounted on skate wheels.

§ 74.26 UNLAWFUL ACTS.

(A) It is unlawful for any person to operate roller blades, roller skates, roller skis or a skateboard under the circumstances set forth hereafter:

(1) On any public sidewalk, street or public parking lot within the Business District, except this does not apply to roller blades and skates;

(2) On private property of another without the express permission to do so by the owner or occupant of the property; or

(3) In any careless, reckless or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person.

(B) It is unlawful for any person operating roller blades, roller skates, roller skis or a skateboard to attach the same, or the person of the operator, to any vehicle upon a street.

(C) Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall ride as close as possible to the right-hand curb or edge of the street.

(D) Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall observe the same rules of the road as required of bicycles, pursuant to M.S. § 169.222, as it may be amended from time to time.

(Prior Code, § 173.35) Penalty, see § 74.99

§ 74.27 RIGHT-OF-WAY.

The operator of roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right-of-way to all vehicles approaching on the street.

Penalty, see § 74.99

§ 74.28 HOURS OF USE.

It is unlawful for any person to use roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skis, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective material shall be a

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minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

Penalty, see § 74.99

§ 74.99 PENALTY.

A person apprehended by a peace officer in violation of the provisions of this chapter does, by his or her use of the public sidewalks, streets and public parking lots, consent to the impoundment by a police officer of the roller blades, roller skates, roller skis or skateboard for a period of three days upon a first offense, a week upon the second offense and 30 days upon a third or additional offense. Any operator aggrieved by the impoundment of his or her roller blades, roller skates, roller skis or skateboard may petition the Council for a hearing thereon at the next regular Council meeting following the impoundment. This provision is in addition to the provisions for fines and penalties as set forth in § 10.99 of this code of ordinances.

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED PROPERTY**
- 91. ANIMALS**
- 92. HEALTH AND SAFETY; NUISANCES**
- 93. STREETS AND SIDEWALKS**
- 94. CITY DOCK**

CHAPTER 90: ABANDONED PROPERTY

Section

General Provisions

- 90.01 Disposition of abandoned property

Abandoned Vehicles

- 90.15 Findings and purpose
90.16 Definitions
90.17 Violation to abandon motor vehicle
90.18 Authority to impound vehicles
90.19 Sale; waiting periods
90.20 Notice of taking and sale
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90.22 Operator's deficiency claim; consent to sale
90.23 Disposition by impound lot
90.24 Disposal authority
90.25 Contracts; reimbursement by MPCA

City Employee Purchase of Abandoned Property or Abandoned Vehicles

- 90.40 May purchase at auction

GENERAL PROVISIONS

§ 90.01 DISPOSITION OF ABANDONED PROPERTY.

(A) *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 90.15 through 90.25 of this chapter.

(B) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

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

Abandoned Property

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

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

ABANDONED VEHICLES

§ 90.15 FINDINGS AND PURPOSE.

M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. This subchapter is adopted under the authority of M.S. § 168B.09, subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. Ch. 168B or Minn. Rules Ch. 7035, as they may be amended from time to time, the statute or rule shall take precedence.

§ 90.16 DEFINITIONS.

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

ABANDONED VEHICLE.

(1) A motor vehicle, as defined in M.S. § 169.011, subd. 42, as it may be amended from time to time, that:

(a) Has remained illegally:

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

2. On private property for a period of time, as determined under § 90.18(B), without the consent of the person in control of the property.

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

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

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

(4) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

DEPARTMENT. The Minnesota Department of Public Safety.

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

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

JUNK VEHICLE. A vehicle that:

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

MOTOR VEHICLE or **VEHICLE.** Has the meaning given a motor vehicle” in M.S. § 169.011, subd. 42, as it may be amended from time to time.

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

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

NON-PUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

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PUBLIC IMPOUND LOT. An impound lot owned by or contracting with a unit of government under § 90.24 of this chapter.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to § 90.18(B) of this chapter or M.S. § 168B.035, as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

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

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

§ 90.17 VIOLATION TO ABANDON MOTOR VEHICLE.

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.
Penalty, see § 10.99

§ 90.18 AUTHORITY TO IMPOUND VEHICLES.

(A) *Abandoned or junk vehicles.* The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city, may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of § 90.18(C) are complied with.

(B) *Unauthorized vehicles.* The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city, may take into custody and impound any unauthorized vehicle under M.S. § 168B.035, as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

(1) In a public location not governed by M.S. § 168B.035 as it may be amended from time to time:

(a) On a highway and properly tagged by a peace officer, four hours;

(b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

(c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) On private property, only with the express permission of the owner of the property, a resident

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or other person in control of the premises:

- (a) That is single-family or duplex residential property, immediately;
- (b) That is private, non-residential property, properly posted, immediately;
- (c) That is private, non-residential property, not posted, 24 hours; or
- (d) That is any residential property, properly posted, immediately.

(3) If under division (B)(2) above, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in division (C) below has been followed.

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

§ 90.19 SALE; WAITING PERIODS.

(A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under § 90.23 of this chapter, 15 days after notice to the owner, if the vehicle is determined to be:

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

(B) *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under § 90.23 of this chapter, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle or upon the date of a voluntary written title transfer by the registered owner to the impound lot operator.

§ 90.20 NOTICE OF TAKING AND SALE.

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

- (1) Set forth the date and place of the taking; the year, make, model and serial number of the

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impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;

(2) Inform the owner and any lienholders of his, her or their right to reclaim the vehicle under § 90.21 of this chapter; and

(3) State that failure of the owner or lienholders to exercise his, her or their right to reclaim the vehicle and contents within the appropriate time allowed under § 90.19 of this chapter shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 90.23 of this chapter.

(4) State that the vehicle owner who provides to the impound lot operator documentation from a government or non-profit agency or legal aid office that the owner is homeless, receives relief based on need, or is eligible for legal aid services, has the unencumbered right to retrieve any and all contents of the vehicle without charge.

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

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

§ 90.21 RIGHT TO RECLAIM.

(A) *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 90.19 of this chapter, after the date of the notice required by § 90.20 of this chapter.

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

(C) At any time before the expiration of the waiting periods provided in § 90.21 of this chapter, a registered owner who provides documentation from a government or non-profit agency or legal aid office that the registered owner is homeless, receives relief based on need, or is eligible for legal aid service, has the unencumbered right to retrieve any and all contents without charge and regardless of whether the registered owner pays incurred charges or fees, transfers title or reclaims the vehicle. For the purposes of

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this section:

(1) **CONTENTS** does not include any permanently affixed mechanical or non-mechanical automobile parts; automobile body parts; or automobile accessories, including audio or video players; and

(2) **RELIEF BASED ON NEED** includes, but is not limited to, receipt of MFIP and Diversionary Work Program, medical assistance, general assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, MSA-emergency assistance, Minnesota Care, Supplemental Security Income, energy assistance, emergency assistance, Supplemental Nutrition Assistance Program, earned income tax credit or Minnesota working family tax credit. The city or impound lot operator shall establish reasonable procedures for retrieval of vehicle contents under this section, and may establish reasonable procedures to protect the safety and security of the impound lot and its personnel.

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

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

- (1) Twenty-five days storage for a vehicle described in § 90.19(A) of this chapter; and
- (2) Fifty-five days storage for a vehicle described in § 90.19(B) of this chapter.

(B) *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under § 90.19 of this chapter is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title. The failure to exercise rights to claim contents under § 90.21(C) of this chapter constitutes a waiver of all right, title and interest in the contents of the vehicle and a consent to the transfer of title to and disposal or sale of the contents.

§ 90.23 DISPOSITION BY IMPOUND LOT.

(A) *Auction or sale.*

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under § 90.21 of this chapter, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 90.20 and 90.21 of this chapter.

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

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(B) *Unsold vehicles.* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) above shall be disposed of in accordance with § 90.24 of this chapter.

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

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

§ 90.24 DISPOSAL AUTHORITY.

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

§ 90.25 CONTRACTS; REIMBURSEMENT BY MPCA.

(A) *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to § 90.24 of this chapter, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under § 90.23 of this chapter. Except as otherwise provided in § 90.24 of this chapter, the MPCA shall not approve any contract that has been entered into without prior notice to and without a request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; nor that does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

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(B) *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under § 90.24 of this chapter, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under § 90.23 of this chapter.

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

CITY EMPLOYEE PURCHASE OF ABANDONED PROPERTY OR ABANDONED VEHICLES

§ 90.40 MAY PURCHASE AT AUCTION.

Pursuant to M.S. § 15.054, as it may be amended from time to time, no officer or employee of the city shall sell or procure for sale or possess or control for sale to any other officer or employee of the city, any property or materials owned by the city except pursuant to conditions provided in this section. Property or materials owned by the city and not needed for public purposes, may be sold to an employee of the city after reasonable public notice at a public auction or by sealed response, if the employee is not directly involved in the auction or process pertaining to the administration and collection of sealed responses. Prior to such auction or collection of sealed responses, public notice of at least one week's published notice must be provided. An employee of the city may purchase no more than one motor vehicle from the city at any one auction. This section shall not apply to the sale of property or materials acquired or produced by the city for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the city from selling or possessing for sale public property if the sale or possession for sale is in the ordinary course of business or normal course of the employee's duties.

CHAPTER 91: ANIMALS

Section

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§ 91.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. **ANIMALS** shall be classified as follows.

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic 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 ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, **FARM ANIMALS** shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch or stable.

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(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, ***NON-DOMESTIC ANIMALS*** shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes and jackals, but excluding commonly accepted domesticated dogs;

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets;

(e) Any poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including, but not limited to, bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

CAT. Both the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping or harboring an animal.

RELEASE PERMIT. A permit issued by the animal control officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A ***RELEASE PERMIT*** may be obtained upon payment of a fee to the City Clerk in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee and any maintenance costs incurred in capturing and impounding the animal.

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§ 91.02 DOGS AND CATS.*(A) Running at large prohibited.*

(1) It shall be unlawful for the dog or cat of any person who owns, harbors or keeps a dog or cat to run at large. A person who owns, harbors or keeps a dog or cat which runs at large shall be guilty of a misdemeanor.

(2) Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited".

(B) License required.

(1) All dogs over the age of six months kept, harbored or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk upon payment of the license fee, as that ordinance may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk the license fee, as it may be amended from time to time.

(3) Upon payment of the license fee, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk. A charge shall be made for each duplicate tag. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are non-residents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. Service animals do not require a license.

(5) The funds received by the City Clerk from all dog licenses and metallic tags fees shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags and impounding and maintenance of the dogs.

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(C) *Cats*. Cats shall be included as controlled by this division (C) insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

(D) *Vaccination*.

(1) All dogs and cats kept harbored, maintained or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:

- (a) Rabies, with a live modified vaccine; and
- (b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine and the veterinarian's signature. Upon demand made by the City Clerk, the animal control officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

Penalty, see § 91.99

Animals

§ 91.03 NON-DOMESTIC ANIMALS.

Except as provided in M.S. § 346.155, as it may be amended from time to time, it shall be illegal for any person to own, possess, harbor or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

Penalty, see § 91.99

§ 91.04 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size; provided that, no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

§ 91.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any animal control officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The animal control officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20 of this code of ordinances, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) below, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which the city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

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(C) *Reclaiming*. For the purposes of this section, **REGULAR BUSINESS DAY** means a day during which the establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 91.11 of this chapter, in which case, it shall be kept for seven regular business days or the times specified in § 91.11 of this chapter, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

- (1) Payment of the release fee and receipt of a release permit;
- (2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and
- (3) If a dog is unlicensed, payment of a regular license fee and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals*. At the expiration of the times established in division (C) above, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may dispose of the unclaimed animal in a manner permitted by law. Any money collected under this section shall be payable to the City Clerk.

Penalty, see § 91.99

§ 91.06 KENNELS.

(A) *Definition of kennel*. The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a **KENNEL**; except that, a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a **KENNEL**.

(B) *Kennel as a nuisance*. Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

Penalty, see § 91.99

Animals

§ 91.07 BARKING/CRYING/WHINING DOGS.

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. **HABITUAL BARKING** shall be defined as barking for repeated intervals of at least two and one-half minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(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 his or her own property, on the property of others or on public property.

(D) *Warrant required.* The animal control officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20 of this code of ordinances, to search for and seize the animal.

(Ord. 91.07, passed 6-16-2015)

§ 91.08 SEIZURE OF ANIMALS.

Any police officer or animal control officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal; provided that, the following exist:

(A) There is an identified complainant other than the police officer or animal control officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 91.07(A) of this chapter; the criteria for cruelty set out in § 91.13 of this chapter; or the criteria for an at large animal set out in § 91.02(A) of this chapter;

(C) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The animal control officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20 of this code of ordinances, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper or other authorized person to enter the property or has obtained a pass key

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from a property manager, landlord, innkeeper or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

§ 91.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the animal control officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 91.05 of this chapter. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 91.05(C) of this chapter.

§ 91.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by him or her, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined in the pound by any person, the animal control officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Penalty, see § 91.99

§ 91.11 DANGEROUS AND POTENTIALLY 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"), as they may be amended from time to time, are adopted by reference.

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(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.

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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, animal control officer or other authorized city employee 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

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(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) (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), as it may be amended from time to time, 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 Minnesota 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;

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(c) The owner has paid the annual license fee for dangerous dogs;

(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 may 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 insure 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.

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(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 Clerk 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 keeps 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) are subject to impoundment and destruction.

(G) *Seizure.* Animal control may immediately seize any dangerous or potentially dangerous dog if:

(1) After 14 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) After 14 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 division (E) above;

(5) After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by division (D)(1)(e) above; and

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(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 may 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 in manner permitted by law.

(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), as it may be amended from time to time, 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, as they may be amended from time to time;

(e) A form to request a hearing; and

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(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 reasonably 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 \$100 fee 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

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(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 divisions (D), (E) or (F) above or similar ordinance in another jurisdiction, or M.S. §§ 347.51, 347.515 or 347.52, as they may be amended from time to time;

(b) Convicted of second degree manslaughter due to negligent or intentional use of a dog under M.S. § 609.205(4), as it may be amended from time to time; or

(c) Convicted of gross misdemeanor harm caused by a dog under M.S. § 609.226, subd. 1, as it may be amended from time to time.

(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, may be impounded until due process is completed, pursuant to division (J) above.

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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)(1) 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 the state.

(O) *Penalties.*

(1) Unless stated otherwise, any person who violates a provision of this section is guilty of a misdemeanor.

(2) Any person who is convicted of a second or subsequent violation of any provision of divisions (D), (E) or (F) above is guilty of a gross misdemeanor.

(3) Any person who violates division (M) above, whether an owner or household member, is guilty of a gross misdemeanor.

§ 91.12 DANGEROUS ANIMALS (EXCLUDING DOGS).

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to dogs as regulated by § 91.11 of this chapter.

(B) *Destruction of dangerous animal.* The animal control officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

DANGEROUS ANIMAL. An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;

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- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten one or more persons on two or more occasions; or
- (e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.

POTENTIALLY DANGEROUS ANIMAL. An animal which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalks or any public property in an apparent attitude of attack; or
- (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A **PROPER ENCLOSURE** does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- (a) Have a minimum overall floor size of 32 square feet;
- (b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 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 shall also have no openings in the wire greater than two inches; and
- (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

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UNPROVOKED. The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The animal control officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked or threatened the safety of a person or a domestic animal as stated in division (C)(2) above. When an animal is declared potentially dangerous, the animal control officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The animal control officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked or threatened the safety of a person or domestic animal as stated in division (C)(1) above.

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked or threatened the safety of a person or domestic animal as stated in division (C)(1) above.

(F) *Authority to order destruction.* The animal control officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The animal control officer, after having determined that an animal is dangerous, may proceed in the following manner: the animal control officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the animal control officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

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(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk's office shall be admissible for consideration by the animal control officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the animal control officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control officer. If the owner does not immediately make the animal available, the animal control officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the animal control officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address and the name of the new owner, if any.

(J) *Dangerous animal requirements.*

(1) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(a) The owner provide and maintain a proper enclosure for the dangerous animal as specified in division (C) (3) above;

(b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property;

(c) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(d) If the animal is outside the proper enclosure, the animal must be muzzled (if physically possible depending on the type of animal) and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the animal from biting any person or animal, but will not cause injury to the animal or interfere with its vision or respiration;

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(e) The animal shall have a microchip implant as provided by M.S. § 347.515, as it may be amended from time to time;

(f) All animals deemed dangerous by the animal control officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the animal control officer.

(g) If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(2) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the animal control officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(3) *Reclaiming animals.* A dangerous animal seized under division (J)(2) above, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under division (J)(1) above, is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under division (F) above, and the owner is liable to the city for costs incurred in confining and impounding the animal.

(4) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under this section with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in division (G) above. If the owner is found to have violated the provisions for which the animal was seized, the animal control officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of division (J)(3) above. If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under division (F) above and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

§ 91.13 BASIC CARE.

(A) *General.* All animals shall receive from their owners or keepers kind treatment, housing in the winter and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

(B) *Dogs and cats.* Dogs and cats must be provided the following basic care.

(1) *Food.* Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

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(2) *Water.* Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

(3) *Transportation and shipment.* When dogs or cats are transported in crates or containers, the crates or containers must be constructed of non-abrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around and provide maximum safety and protection to the animals. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

(4) *Shelter size.* A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

(5) *Exercise.* All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.

(6) *Group housing and breeding.* Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.

(7) *Temperature.* Confinement areas must be maintained at a temperature suitable for the animal involved.

(8) *Ventilation.* An indoor confinement area must be ventilated. Drafts, odors and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents and air conditioning must be used when the ambient temperature rises to a level that may endanger the health of the animal.

(9) *Lighting.* An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

(10) *Confinement and exercise area surfaces.* Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

(11) *Drainage.* Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

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(12) *Sanitation.* Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

(C) *Birds, rodent other animals.* Basic care provided to pet and companion animal birds, rodents and other shall be consistent with M.S. §§ 346.40, 346.41 and 346.42, as those statutes may be amended from time to time.

(D) *Dogs and cats in motor vehicles.*

(1) *Unattended dogs or cats.* A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dogs or cat's health or safety.

(2) *Removal of dogs or cats.* A peace officer, as defined in M.S. § 626.84, as it may be amended from time to time, a humane agent, a dog warden or a volunteer or professional member of a fire or rescue department of the city may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of (D) (1) above. A person removing a dog or a cat under this division (D) (2) shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

(E) *Dog houses.* 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 this section as a minimum.

(1) *Building specifications.* The shelter shall include a moisture-proof and wind-proof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

(2) *Shade.* Shade from the direct rays of the sun, during the months of May to October shall be provided.

(3) *Farm dogs.* In lieu of the requirements of divisions (E)(1) and (E)(2) above, a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

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§ 91.14 BREEDING MORATORIUM.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat, except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

§ 91.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

§ 91.16 POUND.

Every year, the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

§ 91.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Penalty, see § 91.99

§ 91.18 FIGHTING ANIMALS.

(A) The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted herein by reference.

(B) No person shall:

(1) Promote, engage in or be employed in the activity of cockfighting, dogfighting or violent pitting of one pet or companion animal as defined in M.S. § 346.36, subd. 6, as it may be amended from time to time, against another of the same or a different kind;

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- (2) Receive money for the admission of a person to a place used, or about to be used, for that activity;
- (3) Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent or occupant; or
- (4) Use, train or possess a dog or other animal for the purpose of participating in, engaging in or promoting that activity.
- (5) Purchase a ticket of admission or otherwise gain admission to the activity of cockfighting, dogfighting or violent pitting of one pet or companion animal against another of the same or a different kind.

§ 91.19 FEEDING STRAY CATS AND DOGS.

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

FEED or **FEEDING.** The placing of dog or cat food, or similar food products or consumable materials attractive to dogs and cats, which may result in dogs and cats congregating thereon on a regular basis, placed on the ground, in an obviously intended feeder or in a feeder at a height accessible to cats and dogs.

STRAY. An unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.

(B) *Policy and purpose.*

(1) High populations of stray dogs and cats pose a hazard to human health and safety, as such animals provide a fruitful breeding ground for infectious disease, including, but not limited to, rabies and distemper, and may otherwise bite or attack humans and domestic animals.

(2) In addition, food provided for stray animals is often attractive to wild animals such as raccoons and rodents and may create nuisance conditions such as a rat harborage or other wild animal infestation.

(C) *Feeding.* No person shall feed or allow the feeding of any stray cat or dog within the city.

(D) *Exceptions.* Veterinarians and persons who, acting within the scope of their employment with any governmental entity, non-profit or humane society has custody of or manages stray dogs and cats are not subject to the prohibitions of this section.

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§ 91.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99 of this code of ordinances.

(C) *Petty misdemeanor.* Violations of §§ 91.02, 91.07, 91.13 and 91.14 of this chapter are petty misdemeanors punishable as provided in § 10.99 of this code of ordinances.

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

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GENERAL PROVISIONS

§ 92.001 ASSESSABLE CURRENT SERVICES.

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

CURRENT SERVICE. One or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 through 463.26, as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *Snow, ice, dirt and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by city.* The City Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Ch. 52 of this code of ordinances, the City Clerk shall keep a record of the total cost of the installation or repair against the property.

(E) *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act

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damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.
Penalty, see § 92.999

§ 92.002 TREE DISEASES AND SHADE TREE PEST CONTROL.

(A) *Declaration of policy.* The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01 and 89.51 through 89.64, as those sections may be amended from time to time, the provisions of this section are adopted to attempt to control and prevent the spread of these shade tree pests.

(B) *Jurisdiction.* The city shall have control of all street trees, shrubs and other plantings now or hereafter in any street, park, public right-of-way or easement or other public place within the city limits, and shall have the power to plant, care for, maintain, remove and replace such trees, shrubs and other plantings.

(C) *Declaration of a shade tree pest.* The Council may declare any vertebrate or invertebrate animal, plant pathogen or plant threatening to cause significant damage to a shade tree or community forest, as defined by M.S. § 89.001, as it may be amended from time to time, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary timelines for action.

(D) *Public nuisances declared.* A shade tree pest declared by Council occurring within a declared control zone is a public nuisance.

(E) *Shade tree pest nuisances are unlawful.* It is unlawful for any person to permit any public nuisance, as defined in this section, to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

(F) *Definition of control areas.* Upon declaring a shade tree pest, the Council may define one or more locations within the geographic boundaries of the city to be within a shade tree pest control area provided such locations are characterized by biologic, composition, environmental and size factors favorable to successful application of the control measures prescribed by Council.

(G) *Tree Inspector.* The Council may appoint a Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term **TREE INSPECTOR** includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.

(H) *Abatement of shade tree pest nuisances.*

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(1) In abating a nuisance declared by ordinance under divisions (B) and (C) above, the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to divisions (C) above and (K) and (O) below.

(2) In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway in a rural area within the city's jurisdiction, M.S. § 160.22, as it may be amended from time to time, shall be complied with as necessary.

(I) *Reporting discovery of shade tree pest.* Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest, as defined under division (C) above, shall report the same to the city.

(J) *Registration of tree care firms.* Any person, firm or corporation that provides tree care, tree trimming or removal of trees, limbs, branches, brush or shrubs for hire must be registered with the state's Commissioner of Agriculture under M.S. § 18G.07, as it may be amended from time to time.

(K) *Inspection and application of control measures.*

(1) The Tree Inspector is authorized to inspect premises and places within the city to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector is authorized to take all reasonable measures to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the state's Department of Agriculture or the Commissioner of the state's Department of Natural Resources or other reliable means.

(2) Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3) No person, firm or corporation shall interfere with the Tree Inspector acting under his or her authority while engaged in activities authorized by this section.

(L) *Standard abatement procedure.* Except as provided in divisions (M) and (O) below, whenever a Tree Inspector determines with reasonable certainty that a public nuisance as described by this section is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the following procedure.

(1) The Tree Inspector will notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice

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shall be filed with the City Clerk.

(2) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk within seven days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(3) If no timely appeal is submitted, and the notice of abatement and its prescribed control measures are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property and carry out abatement in accordance with the notice of abatement.

(M) *High cost abatement.* If the Tree Inspector determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the written notice referred to in division (L) must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time and location of the hearing must be provided in the notice.

(N) *Appeal procedure.* If the City Clerk receives a written request for a hearing on the question of whether a public nuisance in fact exists, the City Council shall hold a hearing within seven calendar days following receipt by the Clerk of the written request. At least three days notice shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

(O) *Abatement procedure in event of imminent danger.*

(1) If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following divisions (L) or (M) above. The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(2) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

(P) *Recovery of cost of abatement; liability and assessment.*

(1) The owner of premises on which a nuisance has been abated by the city shall be personally

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liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(2) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk may list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

(Q) *Penalty.*

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

(2) Upon conviction of a 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.

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

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

(R) *Declared shade tree pests, control measures and control areas.*

(1) *Oak Wilt.* Oak Wilt is declared a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum*. Control measures prescribed for abating Oak Wilt Disease are:

(a) *Installation of a root graft barrier.* A root graft barrier can be ordered installed to prevent the underground spread of Oak Wilt Disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with Oak Wilt Disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree;

(b) *Removal and disposal of trees on property zoned for residential and commercial use.* On

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property that is zoned residential and commercial, the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum*. After, and in no case before the installation of the root graft barrier and no later than May 1 of the year following infection all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked. If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked;

(c) *Removal and disposal of trees on all other property.* On all other property, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked;

(d) *Wood disposal.* All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying or debarking or chipping or sawing into wane-free lumber or by splitting into firewood, stacking the firewood and immediately covering the woodpile with unbroken 4-mil or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape; and

(e) The **CONTROL AREA** for Oak Wilt Disease is defined as all lands within the boundaries of the city.

(2) *Emerald Ash Borer.* Emerald Ash Borer is declared a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub or worm-like and live underneath the bark of ash trees.

(a) Control measures prescribed for abating Emerald Ash Borer are those provided in the document, *Guidelines to Slow the Growth and Spread of Emerald Ash Borer* from the Minnesota Department of Agriculture.

(b) *Definition of control areas.* The control area for Emerald Ash Borer is defined as all lands within the boundaries of the city.

(3) *Dutch Elm Disease.* Dutch Elm Disease is declared a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the

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fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*.

(a) Control measures prescribed for abating Dutch Elm Disease are:

1. *Use of fungicide.* Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense; and

2. *Removal and disposal of trees.* Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or saw logs if it is de-barked or covered from April 15 to October 15 with 4 mil plastic. The edges of the cover must be buried or sealed to the ground.

(b) *Definition of control areas.* The **CONTROL AREA** for Dutch Elm Disease is defined as all lands within the boundaries of the city.

NUISANCES

§ 92.015 PUBLIC NUISANCE.

(A) A person must not act, or fail to act in a manner that is or causes a public nuisance.

(B) For purpose of this chapter, a person who does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(1) 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;

(2) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(3) Does any other act or omission declared by law or §§ 92.016, 92.017 or 92.018 of this chapter, or any other part of this code to be a public nuisance and for which no sentence is specifically provided. Penalty, see § 92.999

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§ 92.016 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 and soot or cinders, in unreasonable quantities;
- (J) All public exposure of people having a contagious disease; and
- (K) Any offensive trade or business as defined by statute not operating under local license.
- (L) All unnecessary and annoying vibrations.

Penalty, see § 92.999

§ 92.017 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

- (A) All gambling devices, slot machines and punch boards, except as otherwise authorized and permitted by federal, state or local law;
- (B) Betting, bookmaking and all apparatus used in those occupations;
- (C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where

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intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section *INTOXICATING LIQUOR* shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than 0.5% alcohol by volume; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Penalty, see § 92.999

§ 92.018 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 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(G) 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

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stopped;

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Waste water cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

(Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

(S) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(U) All other conditions or things which are likely to cause injury to the person or property of anyone;

(V) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly

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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 this section.

(b) *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.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, 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, 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 between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *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.

(2) *Hourly restriction of certain operations.*

(a) *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 weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

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(W) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel.

Penalty, see § 92.999

§ 92.019 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: obstructs views on streets and private property; creates cluttered and otherwise unsightly areas; prevents the full use of residential streets for residential parking; introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited; decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:

(a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of non-residential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front yard area must be on a paved or graveled parking surface or driveway area.

(c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time, but still claim the property as their legal residence, will be considered residents on the property.

Penalty, see § 92.999

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§ 92.020 INOPERABLE MOTOR VEHICLES.

(A) *Declaration of a nuisance.* Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

(B) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168.13, as it may be amended from time to time.

(C) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

Penalty, see § 92.999

§ 92.021 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

- (1) Are unsightly;
- (2) Decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and/or
- (3) Adversely affect property values and neighborhood patterns.

(B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

- (a) Any one wall or other flat surface; or

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(b) All door and window moldings, eaves, gutters and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.
Penalty, see § 92.999

§ 92.022 DUTIES OF CITY OFFICERS.

For purposes of §§ 92.022 and 92.023 of this chapter, the Police Department, or Sheriff or person designated by the City Council under § 10.20 of this code of ordinances, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20 of this code of ordinances.

§ 92.023 ABATEMENT.

(A) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

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(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated may notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

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(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 92.999

§ 92.024 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a property not owned by that person shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 92.999

Health and Safety; Nuisances**WEEDS****§ 92.035 SHORT TITLE.**

This subchapter shall be cited as the "Weed Ordinance".

§ 92.036 JURISDICTION.

This subchapter shall be in addition to any state statute or regulation or county ordinance presently in effect, subsequently added, amended or repealed.

§ 92.037 DEFINITIONS; EXCLUSIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation that shall conform to M.S. § 18.83, subd. 2, as it may be amended from time to time.

MEADOW VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, except "weeds", as defined herein.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

WEEDS, GRASSES and RANK VEGETATION. Includes but is not limited to the following:

(a) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(b) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(c) Bushes of the species of tall, common or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

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(d) Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding 12 inches;

(e) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;

(f) The term *WEEDS* does not include shrubs, trees, cultivated plants or crops; and

(g) Any other weed designated by M.S. § 18.77, subd. 8, as it may be amended from time to time, as noxious.

(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.

§ 92.038 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

(A) 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 12 inches in height.

(B) These provisions shall not apply to an area established with meadow vegetation if:

(1) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means; and

(2) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign must be no smaller than ten inches square, no larger than one square foot and no higher than three feet tall.

Penalty, see § 92.999

§ 92.039 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 Clerk. 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.

§ 92.040 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this

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subchapter has been violated, shall forward written notification in the form of a "destruction order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk.

(2) Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

§ 92.041 APPEALS.

(A) (1) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council.

(2) 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.

§ 92.042 ABATEMENT BY CITY.

(A) In the event that the property owner shall fail to comply with the "destruction order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

(B) No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property or has obtained a warrant issued by a court of competent jurisdiction.

§ 92.043 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

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(B) (1) The property owner is responsible for all collection costs associated with weed destruction, including, but not limited to, court costs, attorney's fees and interest on any unpaid amounts incurred by the city.

(2) If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

OPEN BURNING

§ 92.060 DEFINITIONS.

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

FIRE CHIEF, FIRE MARSHAL and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a recreational fire, as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as ***OPEN BURNING***.

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a "recreational fire site" using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans and air quality so that nuisance, health or safety hazards will not be created. No more than one ***RECREATIONAL FIRE*** is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a ***RECREATIONAL FIRE SITE***, as defined herein. ***RECREATIONAL FIRE SITES*** shall not be located closer than 25 feet to any structure or combustible material.

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RUNNING FIRE. An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management or agricultural improvement.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as ***STARTER FUELS*** and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

VEGETATIVE MATERIALS. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins and other similar materials. Paper and cardboard are not considered ***VEGETATIVE MATERIALS***.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, manufactured fireplace logs, charcoal, cord wood or untreated dimensional lumber. ***WOOD*** does not include wood that is green with leaves or needles, rotten, wet, oil soaked or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three-foot lengths.

§ 92.061 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning of oils, petroleum fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as, but not limited to: tires; railroad ties; treated; painted or glued wood composite shingles; tar paper; insulation; composition board; sheet rock; wiring; paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of: hazardous waste or materials from salvage operations; solid waste generated from an industrial or manufacturing process; materials from a service or commercial establishment; or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

Penalty, see § 92.999

§ 92.062 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit; except that, a permit is not required for any fire which is a recreational fire, as defined in § 92.060 of this chapter.

Penalty, see § 92.999

§ 92.063 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

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(1) Elimination of fire or health hazard that cannot be abated by other practical means;

(2) Ground thawing for utility repair and construction;

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical;

(4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives;

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical; and

(6) Running fires.

(B) Fire training permits can only be issued by the state's Department of Natural Resources.

(C) Permits for the operation of permanent tree and brush burning sites may only be issued by the state's Department of Natural Resources (DNR).

Penalty, see § 92.999

§ 92.064 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established.

Penalty, see § 92.999

§ 92.065 PERMIT PROCESS FOR OPEN BURNING.

(A) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(B) Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal or Assistant Fire Marshals, if he or she reasonably believes necessary, may require a preliminary site inspection to locate the proposed burn site, note special conditions and set dates and time of permitted burn and review fire safety considerations.

Health and Safety; Nuisances

§ 92.066 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) (1) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.

(2) No fire may be allowed to smolder with no person present.

(3) It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including, but not limited to, fire suppression and administrative fees.

Penalty, see § 92.999

§ 92.067 REVOCATION OF OPEN BURNING PERMIT.

An open burning permit is subject to revocation at the discretion of the DNR Forest Officer, the Fire Chief, Fire Marshal or Assistant Fire Marshals. Reasons for revocation include, but are not limited to, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 92.999

§ 92.068 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

Health and Safety; Nuisances

§ 92.069 BURNING BAN OR AIR QUALITY ALERT.

(A) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.

(B) No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert. Penalty, see § 92.999

§ 92.070 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 to 88.22, as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

§ 92.071 EXTERNAL SOLID FUEL-FIRED HEATING DEVICES (OUTDOOR WOOD BURNING STOVES).

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

EXTERNAL SOLID FUEL-FIRED HEATING DEVICE. A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves and combination fuel furnaces or boiler which burn solid fuel. ***SOLID FUEL-FIRED HEATING DEVICES*** do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

PERSON. An individual, partnership, corporation, company or other association.

STACKS OR CHIMNEYS. Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

(B) *Requirements for operation.*

(1) Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, is declared a public nuisance.

(2) No person may install, use or operate an external solid fuel fired heating device on a lot less than four acres in size.

Health and Safety; Nuisances

(3) All stacks or chimneys must be so constructed to withstand high winds or other related elements and in accordance to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 25 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.

(4) All external solid fuel-fired heating devices must be setback a minimum of 50 feet from all property lines.

(5) All external solid fuel-fired heating devices must be setback a minimum of ten feet from any principal or accessory structure.

(C) *Fuels.*

(1) Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.

(2) The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.

§ 92.999 PENALTY.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99 of this code of ordinances.

CHAPTER 93: STREETS AND SIDEWALKS

Section

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Assessable current services, see § 92.001

Streets and Sidewalks

GENERAL PROVISIONS

§ 93.01 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 10.99

§ 93.02 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 10.99

§ 93.03 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; and/or

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(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

§ 93.04 SNOW AND ICE REMOVAL AND PLACEMENT.

(A) *Purpose.* This section is intended to require owners or occupants of real property to remove snow and ice from public sidewalks and to regulate the placement of snow and ice for the purpose of preventing a public nuisance affecting the safety of the general public.

(B) *Snow and ice removal.*

(1) It is a petty misdemeanor for the owner or the occupant of real property abutting a public sidewalk to fail to remove snow and ice from such abutting public sidewalk within 48 hours after the snow or ice has been deposited.

(2) This section shall not apply to public sidewalks or dead-end streets where no houses face that side of the street nor the public sidewalks that are asphalt surfaced.

(3) The Mayor or, in the absence of the Mayor, the acting Mayor may file with the City Clerk a written declaration suspending the requirements of this section when the accumulation of snow or ice makes removal unreasonably difficult.

(4) Such suspension shall continue for the remainder of the winter season, unless revoked by the City Council at its first regular meeting following the date of the written declaration.

(C) *Placement of snow and ice.* Unless acting under a specific contract with the city or with written special permission from the city, no owners or occupants of real property, or any person on behalf of any such owner or occupant, shall push, deposit, pile or otherwise place in any public street, alley, sidewalk or trail right-of-way, any snow or ice from such private real property or from public boulevards adjoining such private real property. Any such owner or occupant who violates this section shall receive a notice of violation. A second notice of violation will result in an administrative fee and if the city removes the snow, violator will be assessed time and removal costs plus and additional 15% administrative cost. Continued violations will follow the fee schedule.

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(D) *Failure to comply.* If any such owner or occupant fails to remove the snow or ice as herein required, the city may perform such removal work and the owner or occupant shall be personally liable for the costs incurred by the city for such work. If payment is not remitted within 30 days of mailing of an invoice by the city, the City Clerk may report that failure to the City Council, and the City Council may approve all or any portion of any snow removal costs, as herein provided, as a special assessment against the abutting property. Such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected pursuant to M.S. § 429.101, as it may be amended from time to time.

(Ord. 93.04, passed - -) Penalty, see § 10.99

RIGHT-OF-WAY CONSTRUCTION REGULATIONS

§ 93.20 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 subchapter to manage rights-of-way within its jurisdiction.

§ 93.21 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

Minn. Rules Ch. 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 M.S. § 237.162, as it may be amended from time to time, Minn. Rules part 7819.0100, subds. 1 through 23, and Minn. Rules part 7560.0100, subds. 1 through 12, are hereby adopted by reference and are incorporated into this subchapter as if set out in full.

§ 93.22 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.

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(3) *Small wireless facility permit.* A small wireless facility permit is required to place a new wireless support structure (collocate) in the right-of-way, with the exception that a permit is not required for the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables strung between existing utility poles in compliance with national safety codes.

(4) *Small wireless special or conditional land use permit.* A special or conditional land use permit is required to install a new wireless support structure in a right-of-way where the underlying district or area is zoned for single-family residential use or is in a historic district established by federal or state law or city ordinance.

(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, subd. 3, as it may be amended from time to time and notwithstanding division (B) above, 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.

(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 city. Penalty, see § 10.99

§ 93.23 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 city;

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(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 city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(4) The city may require a copy of the actual insurance policies;

(5) If the person is a corporation, a copy of the certificate of incorporation issued by the Secretary of State pursuant to M.S. § 302A.155, as it may be amended from time to time; 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) A small wireless facility permit applicant may file a consolidated small wireless permit application to collocate up to 15 small wireless facilities; provided that, all the small wireless facilities in the application:

(1) Are located within a two-mile radius;

(2) Consist of substantially similar equipment; and

(3) Are to be placed on similar types of wireless support structures.

(C) Payment of money due the city for:

(1) Permit fees as established by the city, estimated restoration costs and other management costs including inspections;

(2) Prior obstructions or excavations;

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- (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, if applicable.

§ 93.24 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

(B) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, M.S. §§ 216D.01 through 216D.09 (gopher one-call excavation notice system), as it may be amended from time to time, and Minn. Rules Ch. 7560.

(C) *Additional small wireless facility conditions.* In addition to division (B) above, the erection or installation of a wireless support structure, or the collocation of a small wireless facility, shall be subject to the following conditions.

- (1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- (2) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, and further provided that an applicant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- (3) No wireless facility may extend more than ten feet above its wireless support structure.
- (4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such support structures and any existing wireless support structure or other facilities in and around the right-of-way.
- (5) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- (6) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement or relocation requirements on the replacement of such structure.

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(7) The execution of a small wireless facility collocation agreement that incorporates any additional terms and conditions mutually agreed upon by the city and the applicant. A small wireless facility collocation agreement is considered public data not on individuals and is accessible to the public hereunder. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

(D) *Payment of rent.*

(1) For collocations of small wireless facilities, the city can, either in its permit or in a standard collocation agreement, require annual rental payments for the small wireless collocations of up to:

- (a) One hundred fifty dollars per year for rent to collocate on the city structure;
- (b) Twenty-five dollars per year for maintenance associated with the collocation; and
- (c) A monthly fee for electrical service as follows:
 - 1. Seventy-three dollars per radio node less than or equal to 100 maximum watts;
 - 2. One hundred eighty-two dollars per radio node over 100 maximum watts; or
 - 3. The actual cost of electricity if the actual cost exceeds the foregoing.

(2) For collocations or placements, other than of small wireless facilities, the city can charge a mutually agreed upon rent reached between the city and the applicant.

(E) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in M.S. Ch. 216D, as it may be amended from time to time, and Minn. Rules Ch. 7560, and shall require pot-holing or open cutting over existing underground utilities before excavating, as determined by the city.

§ 93.25 PERMIT FEES.

Permit fees shall be in an amount established by the city.

(A) *Excavation permit fee.* The city shall establish an excavation permit fee as established by the city, in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

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(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee as established by the city and shall be in an amount sufficient to recover the city management costs.

(C) *Small wireless facility permit fee.*

(1) The city shall impose a one-time small wireless facility permit fee at the time of approval of the collocation application in an amount sufficient to recover:

- (a) Management costs;
- (b) Restoration costs or degradation fee, if applicable;
- (c) Inspection fees, if applicable; and

(d) City engineering, make-ready and construction costs associated with collocation of small wireless facilities.

(2) The city will not impose a small wireless facility permit fee for any of the following activities:

- (a) Routine maintenance of a small wireless facility;
- (b) Replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height and wind or structural loading than the small wireless facility being replaced; or
- (c) Installation, placement, maintenance, operation or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes.

(D) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(E) *Non-refundable.* Permit fees as established by the city that were paid for a permit that the city has revoked for a breach as stated in § 93.33 of this chapter are not refundable.

(F) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(G) 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.

Penalty, see § 10.99

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§ 93.26 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 permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, 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 may be required at the time of application for an excavation permit to post a construction performance bond or a deposit 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 city 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 Clerk, Utilities Superintendent or other person designated by the Council, shall correct all restoration work to the extent necessary, using the method required by the Clerk, Utilities Superintendent or other person designated by the Council. The work shall be completed within five calendar days of the receipt of the notice from the Clerk, Utilities Superintendent or other person designated by the Council, 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 city, or fails to satisfactorily and timely complete all restoration required by the city, the city 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 the city. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

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§ 93.27 PERMIT LIMITATIONS.

(A) *Limitation on area.*

- (1) A right-of-way permit is valid only for the area of the right-of-way specified in the permit.
- (2) No permittee may do any work outside the area specified in the permit, except as provided herein.
- (3) 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) *Obstruction from small wireless facility work.* The city will not require an additional small wireless facility permit fee or require a new collocation agreement for routine maintenance of a small wireless facility, for replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height and wind or structural loading than the small wireless facility being replaced; or for installation, placement, maintenance, operation or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes. The city may require advance notification, however, of these activities if the work will obstruct the public right-of-way.

(C) *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.

§ 93.28 TIMELINE FOR ACTION ON PERMIT APPLICATIONS.

(A) *Denial in general.* 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.

(B) *Procedure for denial on permits other than small wireless facilities permits.*

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(1) The denial of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed.

(2) The city must approve or deny the resubmitted application within 30 days after submission.

(C) *Procedure for denial on small wireless facilities permits.*

(1) The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application, unless the collocation is on a support structure that already qualifies as an existing wireless tower or base station under § 6409(a), codified at 47 U.S.C. § 1455(a), which, in those instances, the city shall approve or deny the small wireless facility permit within 60 days.

(2) The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

(D) *Tolling of deadline on small wireless facility permit.* The deadline for action on a small wireless facility permit application may be tolled if:

(1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days and shall inform the affected applicant in writing of such extension;

(2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information; and

(3) The city and a small wireless facility applicant agree in writing to toll the review period.

§ 93.29 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.

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§ 93.30 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 city.*

(1) At the time of inspection, the Clerk, Utilities Superintendent or other person designated by the Council may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The city may issue an order to the permittee for any work 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 city that the violation has been corrected. If proof has not been presented within the required time, the city may revoke the permit pursuant to § 93.33 of this chapter.

§ 93.31 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.

Streets and Sidewalks

(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.

§ 93.32 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the city of the accurate information as soon as this information is known.

§ 93.33 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 § 93.30 of this chapter.

(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.

Streets and Sidewalks

(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.

§ 93.34 MAPPING DATA; INFORMATION REQUIRED.

(A) *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.

(B) *Service laterals.*

(1) All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules part 7560.0150, subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or other subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One-Call Law and Minnesota Rules governing service laterals installed after 12-31-2005, shall be a condition of any city approval necessary for:

(a) Payments to contractors working on a public improvement project including those under M.S. Ch. 429, as it may be amended from time to time; and

(b) City approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch. 462, as it may be amended from time to time.

(2) The city shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

§ 93.35 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.

Streets and Sidewalks

(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 city 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 Clerk, Utilities Superintendent or other person designated by the Council 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.

§ 93.36 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 Clerk, Utilities Superintendent or other person designated by the Council 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.

§ 93.37 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.

§ 93.38 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.

Streets and Sidewalks

§ 93.39 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 Clerk, Utilities Superintendent or other person designated by the Council.

§ 93.40 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had a permit revoked; believes that the fees imposed are invalid; or disputes a determination of the city regarding § 93.34(B) of this chapter, 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.

§ 93.41 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittees or registrants 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.

CHAPTER 94: CITY DOCK

Section

- 94.01 Rules
- 94.02 General policies
- 94.03 Boat slip rental agreements

§ 94.01 RULES.

The city dock rules shall be as follows:

- (A) No swimming or fishing from the dock.
- (B) No unaccompanied minors are permitted on the dock.
- (C) No unleashed pets are permitted on the dock.
- (D) Only registered boats may be moored in the slip.
- (E) No storage of trailers or equipment at the boat launch, city property or dock is permitted.
- (F) No subleasing, assignment or rental of individual boat slips is permitted.
- (G) Bumpers are required for boats moored without a lift.
- (H) No portion of a boat may overhang the dock or protrude past the edge of the slip.
- (I) No alteration of any slip or the city dock is permitted.
- (J) No person shall obstruct the dock or access to slips. Dock areas must be kept clear at all times.
- (K) The city is not responsible for damage, theft or vandalism of boats or equipment.
- (L) Renters are solely responsible for the conduct and safety of guests. Renters shall be responsible for informing guests of all rules.
- (M) No renter or guest of renter may park in the adjacent DNR parking lot.
- (N) Violations of dock rules are grounds for termination of the lease and removal of boat without refund.
- (O) The Minnesota DNR best management practices for the control of aquatic invasive species shall be followed at all times.
- (P) Any person violating any provision of these rules shall be guilty of a misdemeanor.
(Ord. 171205-01, passed 12-5-2017) Penalty, see § 10.99

§ 94.02 GENERAL POLICIES.

The following are general policies of the city in administration of the city dock:

- (A) The city dock shall be operated from approximately May 1 to October 1 of each year, depending

City Dock

on weather condition, ice-out and freeze-up, and water levels.

(B) All fees for the use and rental of the city dock shall be established in the city fee schedule found in § 34.01 of this code.

(C) The application process for renting an individual boat slip on the city dock shall be as follows:

(1) The city will begin accepting applications on January 1 of each year.

(2) Applicants, members of the same household and owners of the same property may only apply for a single boat slip.

(3) On or before January 25, the city will provide lease agreements to applicants. Extra slips will be available on a first-come, first-serve basis.

(4) If the number of applicants exceeds the number of available boat slips, the city will hold a lottery of all applications received between January 1 and January 15.

(5) Preference for the rental of boat slips shall be given first to city residents, then property owners in the city and last all other applicants.

(6) A waiting list shall be established from the applicant pool.

(D) The application process for renting of a commercial boat slip on the city dock shall be as follows:

(1) The city will begin accepting applications on January 1 of each year.

(2) Applicants may apply for up to three commercial boat slips.

(3) On or before January 25, the city will provide lease agreements to applicants. Extra slips will be available on a first-come, first-serve basis.

(4) If the number of applicants exceeds the number of available boat slips, the city will hold a lottery of all applications received between January 1 and January 15.

(5) Commercial boat slips shall only be available to businesses or non-profit entities located with the city.

(6) A waiting list shall be established from the applicant pool.

(E) A signed lease and a down payment of 50% must be submitted to the city by February 15. The balance must be paid by April 1. Any unpaid slips will be offered to the wait list or shall be available on a first-come, first-serve basis.

(F) No use of a boat slip shall be permitted without full payment, a fully signed lease, and filing of proof of registration and insurance with the city.

City Dock

(Ord. 171205-01, passed 12-5-2017) Penalty, see § 10.99

§ 94.03 BOAT SLIP RENTAL AGREEMENTS.

(A) The rental of all individual boat slips on the city dock shall be pursuant to a signed individual boat slip rental agreement substantially similar to Exhibit A in this section.

(B) The rental of all commercial boat slips on the city dock shall be pursuant to a signed commercial boat slip rental agreement substantially similar to Exhibit B in this section.

City Dock

EXHIBIT A: BOAT SLIP RENTAL AGREEMENT

THIS BOAT SLIP RENTAL AGREEMENT (“Agreement”) is entered into this _____ day of _____, 20__ by the CITY OF SPICER, a Minnesota municipal corporation (“City”), as the owner of the City Dock consisting of boat docking facilities (collectively the “Dock”) including boat slip number _____ (#) (the “slip”) located in the Dock and _____ (“Renter”) as the owner of a _____ (year), _____ (ft.) _____ (Make) boat (“Boat”) registered as _____ (MNDNR Boat Registration Number).

AGREEMENT

1. **Limited Use.** This Agreement only allows the Renter to dock the Boat at the Slip and to use the Dock reasonably necessary for such use. The Slip and the Dock are used only by the Renter and the Renter’s guests and at the sole risk of Renter. Renter hereby assumes any and all such risk. The City assumes no responsibility for, and shall not be liable for the care, protection, or security of the Boat, its contents or the Renter or Renter’s guests.
2. **Term.** This Agreement shall be in effect for the ____ boating season (May 1st to October 1st, weather permitting) (“Season”), unless sooner terminated as a result of any of the following conditions:
 - A. Destruction of the Dock by fire, storm, or other casualty so as to make the use thereof substantially impaired;
 - B. Breach or default of this Agreement or violations of the Rules by Renter or Renter’s guests; or
 - C. Failure of Renter to pay the Rent on or before April 1st of the Season.
3. **Rent.** Renter agrees to pay <\$> as rent for the Season; Minnesota State sales tax of 6.875% and City Local sales tax of .05% must be charged on this rental fee in the amount of <\$> (collectively “Rent”). Rent shall be paid in full prior to the Renter’s use of the Dock or Slip and in any event, if Rent is not paid in full by April 1st of the Season, Renter shall be deemed to have abandoned this Agreement, this Agreement may be terminated by the City without further notice and the City may take any action it deems appropriate including renting the Slip to another renter. Rent is non-refundable. In no event shall Renter be entitled to proration of Rent, including if weather conditions or water levels delay the use of the Slip after May 1st or require early removal of the Dock prior to October 1st.
4. **Rules.** Renter agrees to comply with all rules and regulations (“Rules”) adopted by the City. Renter acknowledges receipt of the Rules. Any violation of this Agreement or the Rules which is not corrected within ten (10) days of written notice from the City shall be a default under this Agreement in which event, this Agreement shall terminate, and the City may remove the Boat from the Slip if necessary at the Renter’s risk and expense and retake possession of the Slip.
5. **Breach.** Renter agrees to comply with all posted rules and regulations (“Rules”) provided by the City from time to time, as fully as though they were set forth herein. Renter acknowledges receipt of the Rules.

City Dock

Any violation of this Agreement or the Rules which is not corrected within five (5) days of written notice from the City shall be a default under this Agreement in which event, this Agreement shall terminate, and the City may remove the Boat from the Slip if necessary at the Renter's risk and expense and retake possession of the Slip.

6. Renter's Responsibilities.

A. Renter shall make suitable arrangements for safe, sheltered anchorage of the Boat during storms, high winds, high or low water, ice or snow conditions and other weather conditions, and Renter warrants that such arrangements have been or will be made. Renter may not assume that the Dock or Slip will be a safe, sheltered anchorage at any time and the City is not required to do any act to save or preserve the Boat or the Renter's property

B. If the Boat sinks while in the Slip or otherwise in the Dock, Renter shall raise the Boat at Renter's sole cost and expense. If action to raise the Boat is not begun within 24 hours after Renter receives notice of the sinking, the City may take action to raise the Boat at Renter's expense, which expense shall be deemed additional Rent hereunder. Undertaking to move the Boat shall not be deemed an assumption of responsibility for the safety, security and care of the Boat by City. The City shall also have the contractual right to enforce its salvage costs and the amount of its salvage lien against the Renter personally.

C. Upon written notice from the City, Renter shall remove the Boat from the Slip if necessary to perform repair or maintenance of the Dock.

D. If Renter elects to use a lift, it must be professionally installed and removed by a contractor authorized by the City. Any canopies on lifts must be dark green in color. Lifts may be manual or solar/battery powered; no hardwired electric lifts are permitted. A list of authorized contractors is available from the City.

7. **Release of Liability and Assumption of Risk.** RENTER, FOR HIMSELF/HERSELF AND ON BEHALF OF HIS/HER HEIRS, ASSIGNS, PERSONAL REPRESENTATIVES, GUESTS, INVITEES AND NEXT OF KIN, HEREBY RELEASES, INDEMNIFIES AND AGREES TO HOLD HARMLESS THE CITY OF SPICER, ITS ELECTED OR APPOINTED OFFICIALS, EMPLOYEES AND AGENTS WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH TO OR LOSS OR DAMAGE TO PERSONAL PROPERTY OF ANY OF SUCH PARTIES, WHETHER CAUSED BY THE NEGLIGENCE OF THE CITY OR OTHERWISE; EXCEPT THAT WHICH IS THE RESULT OF GROSS NEGLIGENCE OR WANTON MISCONDUCT. This release of liability covers all activities surrounding my use of the Slip at the Dock. Nothing in this Agreement shall be deemed a waiver of the City's affirmative defenses, statutory immunities, or tort liability limits.

8. **Insurance.** Renter agrees to maintain liability insurance coverage on the Boat in the amount of \$150,000 or greater and provide proof of coverage to the City prior to use of the Dock. Renter acknowledges that the City does not carry insurance for the Boat and is not responsible for injury or property damage resulting from Renter, or Renter's guests, use of the Dock.

9. **Assignment.** Renter may not assign this Agreement. The Slip may not be subleased or rented to a third

City Dock

party. Only the Boat may be moored in the Slip. In the event Renter replaces the Boat, Renter shall update the City in writing with the new Boat information before mooring the new Boat in the Slip.

10. **Waiver.** The City’s waiver of any of the conditions in or a default under this Agreement shall not constitute a waiver of any future condition or default.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

12. **Entire Agreement; Binding Effect.** This Agreement constitutes the entire agreement of the parties hereto regarding the subject matter hereof. This Agreement is binding on and, subject to paragraph 2(b) shall inure to the benefit of the parties hereto and the heirs, personal representatives, successors and assigns of each.

I HAVE READ THIS AGREEMENT INCLUDING THE RELEASE OF LIABILITY AND ASSUMPTION OF RISK AND THE CURRENT RULES. I FULLY UNDERSTAND WHAT I HAVE READ AND ACKNOWLEDGE THAT MY PARTICIPATION IN THE DOCK RENTAL IS VOLUNTARY WITHOUT ANY INDUCEMENT BY THE CITY AND I FURTHER ACKNOWLEDGE MY CONTINUED USE OF THE DOCK IS A REVOCABLE PRIVILEGE.

RENTER

Signature: _____

Print Name: _____

CITY OF SPICER

Mayor

Attest:

City Administrator

City Dock

EXHIBIT B: COMMERCIAL BOAT SLIP RENTAL AGREEMENT

THIS BOAT SLIP RENTAL AGREEMENT (A“Agreement”) is entered into this _____ day of _____, 20__ by the CITY OF SPICER, a Minnesota municipal corporation (“City”) as the owner of the City Dock consisting of boat docking facilities (collectively the “Dock”) including boat slip number _____ (#) (the “Slip”) located in the Dock and _____ (“Renter”).

AGREEMENT

1. **Commercial Use.** This Agreement allows the Renter to dock a boat at the Slip, provide access for Renter’s guests and patrons (“Guests”) to dock a boat at the slip, and to use the Dock reasonably necessary for such use. The Slip and the Dock are used only by the Renter and the Guests and at the sole risk of Renter. Renter hereby assumes any and all such risks. The City assumes no responsibility for, and shall not be liable for the care, protection, or security of any boat or its contents, or the safety of Renter or Guests.
2. **Term.** This Agreement shall be in effect for the ____ boating season (May 1st to October 1st weather permitting) (“Season”), unless sooner terminated as a result of any of the following conditions:
 - A. Destruction of the Dock by fire, storm, or other casualty so as to make the use thereof substantially impaired;
 - B. Breach or default of this Agreement or violations of the Rules by Renter or Guests; or
 - C. Failure of Renter to pay the Rent on or before April 1 of the Season.
3. **Rent.** Renter agrees to pay <\$> as rent for the Season; Minnesota State sales tax of 6.875% and City Local sales tax of .05% must be charged on this rental fee in the amount of <\$> (collectively “Rent”). Rent shall be paid in full prior to the Renter’s use of the Dock or Slip and in any event, if Rent is not paid in full by April 1st of the Season, Renter shall be deemed to have abandoned this Agreement, this Agreement may be terminated by the City without further notice and the City may take any action it deems appropriate including renting the Slip to another renter. Rent is non-refundable. In no event shall Renter be entitled to proration of Rent, including if weather conditions or water levels delay the use of the Slip after May 1 or require early removal of the Dock prior to October 1st.
4. **Rules.** Renter agrees to comply with all rules and regulations (“Rules”) adopted by the City. Renter acknowledges receipt of the Rules, and shall provide copies of the Rules to all guests using the Dock. Any violation of this Agreement or the Rules which is not corrected within ten (10) days of written notice from the City shall be a default under this Agreement in which event, this Agreement shall terminate, and the City may remove any boats from the Slip if necessary at the Renter’s risk and expense and retake possession of the Slip.
5. **Breach.** Renter agrees to comply with all posted rules and regulations (“Rules”) provided by the City from time to time, as fully as though they were set forth herein. Renter acknowledges receipt of the Rules. Any violations of this Agreement or the Rules by Renter or Guests which are not corrected within five (5)

City Dock

days of written notice from the City shall be a default under this Agreement in which event, this Agreement shall terminate, and the City may remove any boats from the Slip if necessary at the Renter's risk and expense and retake possession of the Slip.

6. Renter's Responsibilities.

A. Renter shall provide a copies of the Rules to all Guests using the Dock. Renter shall require all Guests using the Dock to complete and sign the waiver attached as Exhibit 1 ("Waiver"). Renter shall keep and maintain Waivers for the term of the Agreement and provide copies to the City upon request.

B. Renter shall make suitable arrangements for safe, sheltered anchorage of boats in the Slip during storms, high winds, high or low water, ice or snow conditions and other weather conditions. Renter and Guests may not assume that the Dock or Slip will be a safe, sheltered anchorage at any time and the City is not required to do any act to save or preserve boats moored at the City Dock.

C. If any boat sinks while in the Slip or otherwise in the Dock, Renter shall raise the boat at Renter's sole cost and expense. If action to raise the boat is not begun within 24 hours after Renter receives notice of the sinking, the City may take action to raise the boat at Renter's expense. Undertaking to move the boat shall not be deemed an assumption of responsibility for the safety, security and care of the boat by City. The City shall also have the contractual right to enforce its salvage costs and the amount of its salvage lien against the Renter personally.

D. Upon written notice from the City, Renter shall remove any boat from the Slip if necessary to perform repair or maintenance of the Dock.

E. If Renter elects to use a lift, it must be professionally installed and removed by a contractor authorized by the City. Any canopies on lifts must be dark green in color. Lifts may be manual or solar/battery powered; no hardwired electric lifts are permitted. A list of authorized contractors is available from the City.

7. **Release of Liability and Assumption of Risk.** RENTER, FOR ITSELF AND ON BEHALF OF, ASSIGNS, GUESTS, INVITEES AND NEXT OF KIN, HEREBY RELEASES, INDEMNIFIES AND AGREES TO HOLD HARMLESS THE CITY OF SPICER, ITS ELECTED OR APPOINTED OFFICIALS, EMPLOYEES AND AGENTS WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH TO OR LOSS OR DAMAGE TO PERSONAL PROPERTY OF ANY OF SUCH PARTIES, WHETHER CAUSED BY THE NEGLIGENCE OF THE CITY OR OTHERWISE; EXCEPT THAT WHICH IS THE RESULT OF GROSS NEGLIGENCE OR WANTON MISCONDUCT. This release of liability covers all activities surrounding the use of the Dock. Nothing in this Agreement shall be deemed a waiver of the City's affirmative defenses, statutory immunities, or tort liability limits.

8. **Insurance.** Renter agrees to maintain commercial liability insurance coverage in the amount of \$1,500,000 or greater and provide proof of coverage to the City prior to use of the Dock. The insurance shall list the City as an additional insured. Renter acknowledges that the City is not responsible for injury or property damage resulting from Renter or Guests, use of the Dock. Renter agrees to indemnify, defend, and hold the City harmless from any and all claims arising from Renter or Guests, using the Dock.

City Dock

9. **Assignment.** Renter may not assign this Agreement. The Slip may not be subleased or rented to a third party other than Guests.

10. **Waiver.** The City’s waiver of any of the conditions in or a default under this Agreement shall not constitute a waiver of any future condition or default.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

12. **Entire Agreement; Binding Effect.** This Agreement constitutes the entire agreement of the parties hereto regarding the subject matter hereof. This Agreement is binding on and, subject to paragraph 2(b) shall inure to the benefit of the parties hereto and the heirs, personal representatives, successors and assigns of each.

RENTER

Signature: _____

Print Name: _____

CITY OF SPICER

Mayor

Attest:

City Administrator

City Dock

EXHIBIT 1: WAIVER

As a condition of using boat slip number _____ (the “Slip”) on the City Dock, and as the owner of a boat, I represent that my boat is legally registered and has valid insurance coverage.

I have received a copy of the dock rules and agree to comply with all rules and require all of the members of my party to comply with the dock rules.

On behalf of myself, my assigns, and guests, and next of kin, I hereby release, indemnify and to hold harmless the City of Spicer, its elected or appointed officials, employees and agents with respect to any and all injury, disability, death to or loss or damage to personal property of any of such parties, whether caused by the negligence of the City or otherwise. This release of liability covers all activities surrounding my use of the Slip and the dock.

I have read this waiver including the release of liability and assumption of risk and the current rules. I fully understand what I have read and acknowledge that my use the City Dock is voluntary and my continued use is a revocable privilege.

GUEST

Signature: _____

Print Name: _____

(Ord. 171205-01, passed 12-5-2017) Penalty, see § 10.99

City Dock**TITLE XI: BUSINESS REGULATIONS**

Chapter

- 110. GENERAL LICENSING PROVISIONS**
- 111. COMMERCIAL AMUSEMENTS**
- 112. LIQUOR REGULATIONS**
- 113. PEDDLERS AND SOLICITORS**
- 114. COMMERCIAL PEDAL CAR BUSINESSES**
- 115. SEXUALLY-ORIENTED BUSINESSES**
- 116. LAWFUL GAMBLING**
- 117. GARAGE AND RUMMAGE SALES**
- 118. PUBLIC DANCES AND SPECIAL EVENTS**

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

- 110.01 Licenses required to engage in certain businesses
- 110.02 Application for license
- 110.03 Issuance of license
- 110.04 Date and duration of license
- 110.05 License not transferable
- 110.06 License certificate to be displayed
- 110.07 Revocation or suspension
- 110.08 Appeal and review

§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN BUSINESSES.

No person shall engage in any of the trades, businesses or professions for which licenses are required by Title XI of this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority. Penalty, see § 10.99

§ 110.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:

- (1) The applicant's full name, address and telephone number, and the full name of each officer, partner or business associate, if applicable;
- (2) His or her present occupation and principal place of business;
- (3) His or her place of residence for the preceding five years;
- (4) The nature and location of the intended business or enterprise;
- (5) The period of time for which the license is desired;

General Licensing Provisions

(6) A description of the merchandise, goods or services to be sold;

(7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number and vehicle registration (VIN) number of the vehicle; and

(8) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Any change in the information required by division (A) above must be reported to the City Clerk or other authorized official within 14 days of that change.

(C) Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

(D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(E) It shall be unlawful to knowingly make any false statement or representation in the license application.

Penalty, see § 10.99

§ 110.03 ISSUANCE OF LICENSE.

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk, shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk.

§ 110.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

§ 110.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business and, unless otherwise provided, no license shall be assigned or transferred.

Penalty, see § 10.99

General Licensing Provisions

§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.

Penalty, see § 10.99

§ 110.07 REVOCATION OR SUSPENSION.

(A) Any license may be suspended or revoked by the City Clerk or City Council at any time for the following reasons:

- (1) For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;
- (2) For any misrepresentation of a material fact in the application discovered after issuance of the license;
- (3) For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;
- (4) For violation of any provision of this chapter or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or
- (5) Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

(B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

§ 110.08 APPEAL AND REVIEW.

General Licensing Provisions

In case any applicant has been denied a license by the City Clerk, or if his or her license has been suspended or revoked by the City Clerk, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk or other authorized official. Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

CHAPTER 111: COMMERCIAL AMUSEMENTS

Section

- 111.01 Bowling; billiards and pool
- 111.02 Circuses, carnivals, shows and other entertainment
- 111.03 Amusement devices
- 111.04 Deposit required
- 111.05 License fee for public entertainment or exhibition
- 111.06 Amusement rides

§ 111.01 BOWLING; BILLIARDS AND POOL.

Each proprietor of a billiard or pool table or of a bowling alley, or a combination of both, shall pay an annual license fee in an amount established by the city.

Penalty, see § 10.99

§ 111.02 CIRCUSES, CARNIVALS, SHOWS AND OTHER ENTERTAINMENT.

(A) (1) Pursuant to M.S. § 437.07, as it may be amended from time to time, each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the city.

(2) Local school entertainment, charitable organizations, lecture courses and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided that, the entertainment is not for profit.

(B) In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the Police Department or the Fire Department.

Commercial Amusements

(C) No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

Penalty, see § 10.99

§ 111.03 AMUSEMENT DEVICES.

(A) The term *COIN-OPERATED MECHANICAL AMUSEMENT DEVICE* means any machine, which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It includes such devices as marble machines, pinball machines, skill ball, mechanical grab machines, mechanical rides intended for use by children, such as merry-go-rounds, horses, Ferris wheels and the like; carnival, fair, and/or festival rides and all similar games, operations or transactions under whatever name they may be indicated.

(B) A person, firm, corporation or association must not display for public use any coin-operated mechanical amusement device without obtaining a license for it and paying the fee established by the city. Applications for a license must be made to the City Clerk.

(C) The license or licenses obtained must be posted permanently and conspicuously at the location of the machine in the premises where the machine is to be operated.

Penalty, see § 10.99

§ 111.04 DEPOSIT REQUIRED.

(A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Clerk or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise, the same shall be forfeited to the city to the extent of actual costs to the city for restoration and cleaning up of the grounds.

(B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place.

Penalty, see § 10.99

§ 111.05 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for the license shall be in an amount as established by the city.

Commercial Amusements

§ 111.06 AMUSEMENT RIDES.

(A) For the purposes of this section *AMUSEMENT RIDE* shall mean a mechanical device that carries or conveys passengers along, around or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement subject to regulation under M.S. §§ 184B.01 through 184B.09, as they may be amended from time to time. *AMUSEMENT RIDE* does not include:

(1) A coin-operated ride that is manually, mechanically or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator; or

(2) Non-mechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, playground slides, trampolines and physical fitness devices; and

(3) Any other amusement device regulated under § 111.03 of this chapter, as that section may be amended from time to time.

(B) A person, firm, corporation or association must not operate an amusement ride without first obtaining a license under § 111.02 of this chapter, as that ordinance may be amended from time to time and providing the City Clerk with a copy of:

(1) A certificate stating that the insurance required by M.S. § 184B.02, as it may be amended from time to time, is in effect; and

(2) An affidavit attesting that the inspection required by M.S. § 184B.03, as it may be amended from time to time, has been performed. The City Clerk, upon receipt, shall furnish such information to the local law enforcement office.

Commercial Amusements

CHAPTER 112: LIQUOR REGULATIONS

Section

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GENERAL PROVISIONS

§ 112.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 340A, as it 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. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

§ 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. Ch. 340A, as it may be amended from time to time.

§ 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.

Liquor Regulations

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 *Asmall establishment@*, *Amedium establishment@* or *Alarge establishment@*, as defined in M.S. § 157.16, subd. 3(d), 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 *Asmall establishment@*, *Amedium establishment@* or *Alarge establishment@*.

§ 112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) (1) 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.

(2) 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.

(3) 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.

(4) 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) (1) 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.

(2) 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) of this chapter.

Penalty, see § 112.99

§ 112.05 CONSUMPTION IN PUBLIC PLACES.

Liquor Regulations

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.

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. Ch. 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.

§ 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.

§ 112.22 KINDS OF LIQUOR LICENSES.

(A) 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 of this chapter.

(B) The council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 112.55 of this chapter:

(1) 3.2% malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2% malt liquor with

Liquor Regulations

the incidental sale of tobacco and soft drinks;

(2) 3.2% malt liquor off-sale license;

(3) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious or non-profit organization;

(4) 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 5-1-1994. The fee for an off-sale intoxicating liquor license established by the Council under § 112.23 of this chapter shall not exceed \$240 or a greater amount which may be permitted by M.S. § 340A.408, subd. 3, as it may be amended from time to time;

(5) 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; theaters; 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 of this chapter shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2(b), 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. 4(b), 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. 4(a), 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;

(6) 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 of this chapter, 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 of this chapter, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, subd. 3(b), as it may be amended from time to time;

(7) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000;

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(8) 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 non-profit corporation that has existed for at least three years; a political committee registered under state law; or a state university. 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;

(9) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters; 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 of this chapter; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.4011, subd. 1, as it may be amended from time to time and to theaters that meet the criteria in M.S. § 340A.404, subd. 1(b). The fee for an on-sale wine license established by the Council under the provisions of § 112.23 of this chapter 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;

(10) One-day consumption and display permits with the approval of the Commissioner of Public Safety to a non-profit organization in conjunction with a social activity in the city sponsored by the organization;

(11) 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 of this chapter 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;

(12) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only;

(13) Temporary off-sale wine licenses, with the approval of the Commissioner of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in the state. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by § 112.23 of this chapter;

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(14) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. § 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (B)(15) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year; provided that, off-sales may not total more than 500 barrels;

(15) Brewer off-sale malt liquor license, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (B)(14) above and otherwise meets the criteria established as M.S. § 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.301, subd. 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (B)(14) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year; provided that, off-sales may not total more than 500 barrels. Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer's license under M.S. § 340A.301, subd. 6(c), (i) or (j), and meeting the criteria established by M.S. § 340A.28, as may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with M.S. § 340A.285, as it may be amended from time to time.

(16) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer;

(17) Brewer taproom license, may be issued to the holder of a brewer's license under M.S. § 340A.301, subd. 6(c), (i) or (j), as it may amended from time to time. A brewer's taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. § 340A.301, subd. 6(d), as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the City Clerk will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The City Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension or revocation during the license period;

Liquor Regulations

(18) A cocktail room license may be issued to the holder of a state microdistillery license. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. § 340A.301, subd. 6(a), as it may be amended from time to time. No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the Commissioner of Public Safety of the licensee's name and address and trade name and the effective date and expiration date of the license. The city shall also inform the Commissioner of Public Safety of a microdistillery cocktail room license transfer, cancellation, suspension or revocation during the license period;

(19) A microdistiller off-sale license may be issued to the holder of a state microdistillery license. A microdistiller off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers; and

(20) A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

§ 112.23 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time 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.

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(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. § 340A.408, as it may be amended from time to time, if, at the time of initial application or renewal, they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

(4) Failure to abide by the provisions of this division (F) may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to § 112.36 of this chapter.

§ 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.

§ 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.

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(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.

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.

§ 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.

§ 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.

Penalty, see § 112.99

§ 112.29 INVESTIGATION.

(A) *Preliminary background and financial investigation.* 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. 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. 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.

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(B) *Comprehensive background and financial investigation.* 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. 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. 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.

§ 112.30 HEARING AND ISSUANCE.

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. 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.

§ 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 granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.

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.

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(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.

(F) Failure by an off-sale intoxicating liquor licensee who has received a fee reduction pursuant to § 112.23(F) of this chapter to abide with the provisions of § 112.23(F) of this chapter. 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, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(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.

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(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

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.

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.

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 14.70, as they 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. Ch. 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:

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(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 of this chapter, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) above 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 a 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 Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (C) 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 of this chapter pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.
Penalty, see § 112.99

MUNICIPAL LIQUOR STORES

§ 112.50 APPLICATION OF THIS SUBCHAPTER.

This subchapter applies only to a city that has in existence on the effective date of this chapter a municipal liquor store.

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§ 112.51 EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in § 112.55 of this chapter, no intoxicating liquor may be sold at retail elsewhere in the city.

Penalty, see § 112.99

§ 112.52 LOCATION.

The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.

§ 112.53 OPERATION.

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this chapter from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this chapter and with the laws relating to the sale of intoxicating liquor and 3.2% malt liquor.

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

(C) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

(D) *Financial statement.* The Council shall provide within 90 days following the end of the calendar

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year for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement shall be published in accordance with the provisions of M.S. § 471.6985, as it may be amended from time to time.

(E) *Hours of operation.*

(1) The hours during which the sale of intoxicating liquor may be sold shall be as provided in § 112.33 of this chapter.

(2) No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease. Penalty, see § 112.99

§ 112.54 PROOF OF FINANCIAL RESPONSIBILITY.

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. § 340A.409, as it may be amended from time to time.

§ 112.55 ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. § 340A.404, subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue on its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this section is governed by M.S. § 340A.413, as it may be amended from time to time, as limited by the provisions of this chapter. The issuance of these licenses is governed by the provisions of this chapter.

(B) *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

(C) *On- and off-sale 3.2% malt liquor licenses.* The Council may issue 3.2% malt liquor licenses in its sound discretion as provided in this chapter.

(D) *Brewer taproom license.* The Council may issue brewer taproom licenses in its sound discretion, as provided in this chapter.

(E) *Microdistillery cocktail room license.* The Council may issue microdistillery cocktail room licenses in its sound discretion, as provided in this chapter.

§ 112.99 PENALTY.

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(A) Any person violating the provisions of this chapter or M.S. Ch. 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. Ch. 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 14.70, as they 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 licenses 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. Ch. 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.

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CHAPTER 113: PEDDLERS AND SOLICITORS

Section

- 113.01 Definitions
- 113.02 Exceptions to definitions
- 113.03 Licensing; exemptions
- 113.04 License ineligibility
- 113.05 License suspension and revocation
- 113.06 License transferability
- 113.07 Registration
- 113.08 Prohibited activities
- 113.09 Exclusion by placard
- 113.10 Effectiveness

§ 113.01 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 movement, 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**.

Peddlers and Solicitors

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 movement, 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.

§ 113.02 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.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 113.07 of this chapter. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

§ 113.03 LICENSING; EXEMPTIONS.

Peddlers and Solicitors

(A) *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329, as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Pursuant to M.S. § 437.02, as it may be amended from time to time, except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 113.07 of this chapter.

(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 operations in the city. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. 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, including cellular phones and facsimile (fax) machines;
- (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, with a maximum 14 consecutive days;

Peddlers and Solicitors

(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 required 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 (VIN) for any vehicle to be used in conjunction with the licensed business and a physical description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established by the city.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, 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 Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk 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 Clerk must issue the license unless there exist grounds for denying the license under § 113.04 of this chapter, in which case the Clerk must deny the license application. If the City Clerk denies the license application, 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 for a public hearing. The decision of the City Council following the public hearing can be appealed by petitioning the state's Court of Appeals for a writ of certiorari.

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(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 to peddlers and transient merchants 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 movement 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.

Penalty, see § 10.99

§ 113.04 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 office of the Minnesota Attorney General, or other state 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.

Peddlers and Solicitors

§ 113.05 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) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by the applicant on the application form;
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity;
- (3) Subsequent conviction of any offense for which granting of a license could have been denied under § 113.04 of this chapter;
- (4) Engaging in prohibited activity as provided under § 113.08 of this chapter; and/or
- (5) Violation of any other 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.*

(1) 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 Clerk 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.

(2) 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.

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(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) above.

(F) *Appeals*. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Penalty, see § 10.99

§ 113.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Penalty, see § 10.99

§ 113.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 113.03 of this chapter, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

Penalty, see § 10.99

§ 113.08 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.;

Peddlers and Solicitors

(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; and/or

(G) Remaining on the property of another when requested to leave, or to otherwise conducting business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.
Penalty, see § 10.99

§ 113.09 EXCLUSION BY PLACARD.

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48-point in size stating ANo Peddlers, Solicitors or Transient Merchants@, APeddlers, Solicitors and Transient Merchants Prohibited@ or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.
Penalty, see § 10.99

§ 113.10 EFFECTIVENESS.

The provisions of §§ 113.01, 113.02, 113.08 and 113.09 of this chapter shall automatically apply upon adoption of this chapter. Sections 113.03, 113.04, 113.05, 113.06 and 113.07 of this chapter shall not be effective until the adoption of a City Council resolution or ordinance authorizing the licensing of persons covered by those sections.

CHAPTER 114: COMMERCIAL PEDAL CAR BUSINESSES

Section

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§ 114.01 PURPOSE AND INTENT.

(A) This chapter is adopted for the purpose of regulating commercial pedal car businesses within the city limits.

(B) No person shall engage in a commercial pedal car business unless:

(1) The operation of the commercial pedal car business occurs pursuant to and in compliance with the terms and conditions of this chapter adopted by the Spicer City Council; and

(2) The commercial pedal car business and its commercial pedal car drivers are licensed by the city.

(C) For the purposes of this chapter, a person engages in a commercial pedal car business whenever a person performs all of the following:

Commercial Pedal Car Businesses

- (1) Operates a commercial pedal car upon or over a public street, alley or public right-of-way,
 - (2) Solicits, suggests or otherwise advertises in any way the availability of the business for the transportation of the public; and
 - (3) Charges a fee for the transportation of passengers.
- (Ord. 175.03, passed - -2015)

§ 114.02 DEFINITIONS.

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

COMMERCIAL PEDAL CAR. A pedal car is a non-motorized four or more wheeled bicycle-like vehicle that is human powered that transports passengers on bicycle-like seats and is propelled by five or more passengers not including the operator. A **PEDAL CAR** may have a maximum length of 20 feet, a maximum width of eight feet six inches and a maximum height of 12 feet. A **PEDAL CAR** may not be power assisted.

COMMERCIAL PEDAL CAR BUSINESS. The business of operating one or more commercial pedal car vehicle(s) for profit or not-for-profit.

COMMERCIAL PEDAL CAR DRIVER. Any person who is responsible for the safe operation of a commercial pedal car, including, but not limited to, the steering and braking and maintaining compliance with all state and local traffic regulations.

COMMERCIAL PEDAL CAR DRIVER'S LICENSE. A license granted in accordance with this chapter.

STREET. Any street or roadway under the jurisdiction of the city.

VEHICLE. Every device in, upon or by which any person is or may be transported or drawn upon a highway or street.
(Ord. 175.03, passed - -2015)

§ 114.03 LICENSE REQUIRED.

(A) No person shall engage in the activity of operating of a commercial pedal car business without a license, as required under this chapter.

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(B) No person shall operate a commercial pedal car without a commercial pedal car driver's license, as required under this chapter.

(Ord. 175.03, passed - -2015) Penalty, see § 10.99

§ 114.04 LICENSE FEE.

(A) *Commercial pedal car business license.* The annual fee for a commercial pedal car business license shall be as established in the license fee schedule, and based on the number of commercial pedal car(s) in operation on the streets at any time during the license year.

(B) *Commercial pedal car driver's license.* The annual fee for a commercial pedal car driver's license shall be as established in the license fee schedule.

(Ord. 175.03, passed - -2015)

§ 114.05 LICENSE APPLICATION.

(A) *Commercial pedal car business license.* Application for a license under this chapter shall be made on forms provided by the licensing official and shall contain any information the licensing official may require, including the name, address and telephone number of the applicant; whether the applicant is a natural person, partnership, corporation or unincorporated association; the names and addresses of all partners, if a partnership, or of all officers and directors, if a corporation; and the names and addresses of all persons authorized to operate a commercial pedal car on behalf of the licensee.

(B) *Commercial pedal car driver's license.* Application for a pedal car driver's license under this chapter shall be made on forms provided by the licensing official and shall contain such information as the licensing official may require, including the name, telephone number, date of birth, current address and all residing addresses within the previous five years of the applicant. Each pedal car driver's license shall indicate the name of the pedal car business for which the driver works. No pedal car driver shall drive for a different pedal car business without first notifying the licensing official and obtaining a new driver's license indicating the new pedal car company. Every pedal car driver shall meet and maintain the following requirements in order to hold a pedal car driver's license:

(1) Possess a valid Minnesota driver's license or a valid driver's license from his or her home state. Those with out-of-state driver's licenses must not have a currently cancelled, revoked or suspended Minnesota driver's license. Those with out-of-state driver's licenses must provide a certified copy of their driving and criminal history from their home state;

(2) Be a minimum of 18 years old;

(3) Shall not have had more than three moving violations in the last three years and no more than two moving violations in the last year;

Commercial Pedal Car Businesses

(4) Shall not have been convicted of careless or reckless driving or any violation of M.S. Ch. 169A (driving while impaired), as it may be amended from time to time, within the past three years; and

(5) The provisions of M.S. Ch. 364, as it may be amended from time to time, shall govern the eligibility of an applicant or license holder to acquire or maintain a pedal car driver's license based on a prior or present criminal conviction or convictions.

(Ord. 175.03, passed - -2015)

§ 114.06 LICENSE EXPIRATION.

Commercial pedal car business licenses and commercial pedal car driver's licenses issued under this chapter shall expire on March 1 of each year.

(Ord. 175.03, passed - -2015)

§ 114.07 LICENSE NUMBER.

All commercial pedal cars shall be assigned a number or number series by the licensing official. The number assigned shall be displayed at least two inches to the right of the rear left hand turn signal, but no further than the center of the commercial pedal car and shall be a minimum of three inches in height and in a contrasting color that does not blend into the paint color of the commercial pedal car.

(Ord. 175.03, passed - -2015)

§ 114.08 INSURANCE REQUIRED.

No commercial pedal car business license shall be issued or renewed without proof of general liability insurance in the minimum amount of \$2,000,000 listing each of its commercial pedal car drivers as additionally insured. Proof of insurance shall comply with § 110.01 of this code of ordinances.

(Ord. 175.03, passed - -2015)

§ 114.09 APPROVED TOUR ASSEMBLY SITES REQUIRED.

All commercial pedal car businesses shall operate tours only from approved commercial locations on private property approved by the licensing official. These sites shall be used by the licensed business as the locations for patrons to gather and assemble prior to embarking on a commercial pedal car tour and to disembark at the conclusion of the tour. Approved sites shall provide patron access to restroom facilities and a minimum of three off-street customer parking spaces per pedal car operated from the site. Any approved assembly site located in the B1 Downtown Business District shall be exempt from the customer parking requirements.

(Ord. 175.03, passed - -2015)

Commercial Pedal Car Businesses

§ 114.10 COMMERCIAL PEDAL CAR INSPECTIONS.

(A) *Initial inspections.* All commercial pedal cars must pass an initial inspection of condition and compliance with safety and equipment standards under this chapter before a commercial pedal car license is issued.

(B) *Annual inspections.* The licensing official shall require an annual commercial pedal car inspection and may designate minimum safety standards for equipment and body defects. A separate fee as established in the license fee schedule may be required for an annual inspection. Commercial pedal cars found to not meet minimum inspection standards may be identified as *Out of service* and shall not operate until such defects have been repaired and approved by the licensing official.

(C) *Periodic inspections.* The licensing official shall have the right to examine and inspect any licensed commercial pedal car at any reasonable time in order to ensure compliance with all applicable ordinances, laws and rules.

(D) *In-operation inspections.* If an inspector finds a commercial pedal car in operation exhibiting continuing and present safety concerns, the commercial pedal car may be immediately ordered out of service until necessary repairs are made or the safety concerns are resolved. Qualifying safety concerns may include, but are not limited to, failure to abide by applicable ordinances, laws or rules, flat tires, inoperable head lights or tail lights or other mechanical or operational issues making the vehicle presently unsafe to operate.

(Ord. 175.03, passed - -2015)

§ 114.11 HOURS OF OPERATION.

(A) Hours of operation shall be from 10:00 a.m. and will end one half-hour after sunset.

(B) The prohibitions of hours of operation may be waived for special events upon written request to the City Council.

(Ord. 175.03, passed - -2015)

§ 114.12 VEHICLE OPERATION; RESTRICTIONS AND CONDITIONS.

(A) Every commercial pedal car shall be operated in compliance with all applicable federal, state and local traffic laws, and in a manner so as to assure the safety of persons and property.

(B) (1) No commercial pedal car shall be operated or parked on a public sidewalk.

(2) No commercial pedal car shall use any public street or other public property as a waiting area unless such area is a legal motor vehicle parking area.

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(3) No commercial pedal car driver shall consume any alcoholic beverages while on duty or operate a commercial pedal car while impaired in any manner to any threshold provided by M.S. § 169A.20 (1), as it may be amended from time to time.

(4) All commercial pedal cars shall be clean and maintained in a good state of repair. All commercial pedal cars shall be maintained by the commercial pedal car business so as to be well painted and have an appearance free of damage or deterioration, and a safe operational condition. Commercial pedal cars shall be, at all reasonable times, subject to inspection by the licensing official or the Police Department.

(5) All commercial pedal cars shall display a valid commercial pedal car business license decal conspicuously displayed, issued by the licensing official.

(6) All commercial pedal cars shall have the trade name and phone number of the commercial pedal car business licensee conspicuously displayed on the pedal car.

(7) All commercial pedal car passengers consuming alcohol shall be of legal age as established pursuant to M.S. § 340A.503, as it may be amended from time to time.

(8) Commercial pedal car drivers shall have in their possession proof of insurance, valid state driver's license and a commercial pedal car drivers license while in control of any commercial pedal car and shall operate the pedal car in compliance with all applicable federal, state and local traffic laws, ordinances or other applicable regulations and in a manner so as to assure the safety of persons and property. These documents shall be made available upon request of law enforcement, the license official or traffic control agent.

(9) All commercial pedal car drivers shall obey and comply with any lawful order or direction of any police officer, traffic-control agent or license inspector, and shall refrain from the use of any profane language or from interference with such officials while in the performance of their duties.

(10) No commercial pedal car driver shall permit more passengers to be carried in a commercial pedal car than the commercial pedal car's normal seating capacity and no more than two persons in addition to the driver may be in the center aisle while vehicle is in motion.

(11) No commercial pedal car driver shall allow a passenger or other individuals to drive their commercial pedal car unless that individual also holds a commercial pedal car driver's license from the city.

(12) Commercial pedal cars may only operate on streets in the city that have been approved in writing by the City Council.

(13) No glassware of any kind shall be allowed on a commercial pedal car including, but not limited to, bottles, receptacles or drinking glasses.

Commercial Pedal Car Businesses

(14) No music or amplified sound shall be played, nor yelling or conversation be conducted, in such a manner that the sound of which carries to points of habitation or adjacent properties and is audible above the level of conversational speech at a distance of 50 feet or more from the point of origin of the sound.

(15) No alcoholic beverages other than beer, wine, hard cider or malt-based beverages below 6% alcohol purchased from an off-sale vendor may be consumed by passengers of a commercial pedal car.

(16) It is the responsibility of the commercial pedal car driver to properly dispose of all trash.

(17) A commercial pedal car driver must be properly attired with a shirt, pants, skirt or shorts and secure footwear.

(18) A commercial pedal car driver shall not stop to load or unload passengers or their belongings in the intersections of any street, crosswalk or in any manner or other location that would be considered unsafe. No commercial pedal car driver shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

(19) It shall be unlawful for any commercial pedal car driver to allow or cause to be operated a pedal car in any unsafe manner or operating condition.

(20) It is the responsibility of the commercial pedal car driver to actively and affirmatively manage the behavior of the passengers of the commercial pedal car so that their behavior remains law-abiding during the excursion, both while the pedal car is in motion and at a stop. Behavior which shall be prohibited and prevented includes specifically, but is not limited to, violations of M.S. §§ 617.23 (indecent exposure) and 609.72 (disorderly conduct), as they may be amended from time to time, and § 130.07 (public urination) of this code of ordinances.

(21) Any commercial pedal car not in compliance with the minimum requirements of section 14 may be cited and placed immediately-out-of-service. Any vehicle which has been so removed from service shall not be returned to service until such vehicle has been approved by the licensing official for resumption of service.

(Ord. 175.03, passed - -2015)

§ 114.13 VEHICLE SAFETY AND EQUIPMENT STANDARDS.

No commercial pedal car owner or driver shall operate or allow the operation of a commercial pedal car on any street unless the commercial pedal car meets the following equipment and safety standards.

(A) *Tires.* Tires shall be of a size appropriate for the commercial pedal car with no mismatched tires per the design of the vehicle. There shall be no cuts to the tire, localized worn spots that expose the ply, or visible tread wear indicators.

Commercial Pedal Car Businesses

(B) *Operational horn.* The commercial pedal car shall be equipped with a fully operational horn or bell.

(C) *Brakes.* It shall be unlawful to operate, or cause to be operated, a commercial pedal car that is not equipped with a front and rear braking system capable of being manipulated by the driver from driver's normal position of operation and capable of causing a commercial pedal car with a loaded passenger compartment to come to a complete stop in a linear path of motion when each wheel of the commercial pedal car is in contact with the ground on dry, level, clean pavement. The braking system controlling the rear wheels shall be hydraulic or mechanical disc or drum brakes, which are unaffected by rain or wet conditions.

(D) *Headlights, tail lights, mirrors, turn signals and other requirements.* Every commercial pedal car shall be equipped with the operational equipment set forth in the divisions below:

(1) A headlight capable of projecting a beam of white light for a distance at a minimum of 300 feet, which shall be clearly visible during darkness and must be illuminated at all times during darkness;

(2) A side mounted mirror or a wide-angle rear view mirror affixed to the pedal car to reflect to the pedal car driver a view of the street for a distance of at least 200 feet from the rear of the pedal car;

(3) A red light and brake light affixed to the rear of the pedal car which must be visible for a distance of at least 200 feet from the rear of the pedal car and must be illuminated at all times during darkness. Turn signals must be affixed to the front and rear of the vehicle; and

(4) All pedal cars shall have reflectors on the frame and a red reflector mounted on each side of the rear of the pedal car, at least one inch from the outer edge and centered. In addition, the international slow moving triangle must be displayed on the rear of the pedal car.

(Ord. 175.03, passed - -2015)

§ 114.14 ADVERTISING ON COMMERCIAL PEDAL CARS.

Advertisements shall only be allowed on the manufactured body of the commercial pedal car as permitted by this chapter. No banners, poles, flags, detached signs or any other addition or object will be permitted.

(Ord. 175.03, passed - -2015)

§ 114.15 COMPLIANCE.

Every licensed pedal car business shall:

Commercial Pedal Car Businesses

(A) Take affirmative measures to ensure that all of its owners and drivers comply with the terms of this chapter;

(B) Be responsible for the operation of an unlicensed commercial pedal car driver;

(C) Ensure that no commercial pedal car is operated in unsafe mechanical condition or continues to operate after it has been ordered out of service;

(D) Promptly respond to all requests for information from the licensing official;

(E) Promptly report any and all accidents involving commercial pedal cars operating in the city to the licensing official; and

(F) Every licensed pedal car business shall be deemed the agent of service of all notices, orders and other correspondences from the city to commercial pedal car drivers operating under the business's license.

(Ord. 175.03, passed - -2015)

§ 114.16 REVOCATION OR SUSPENSION.

In addition to all other penalties, any violation of the terms of this chapter shall be grounds for revocation, suspension or non-renewal of the license provided for in this chapter.

(Ord. 175.03, passed - -2015)

Commercial Pedal Car Businesses

CHAPTER 115: SEXUALLY-ORIENTED BUSINESSES

Section

- 115.01 Purpose
- 115.02 Findings
- 115.03 Definitions
- 115.04 Exceptions
- 115.05 License required
- 115.06 Person ineligible
- 115.07 Places ineligible
- 115.08 License application
- 115.09 Fees
- 115.10 Granting of licenses
- 115.11 Conditions of license
- 115.12 Restrictions and regulations
- 115.13 Suspensions and revocation of license

- 115.99 Penalty

§ 115.01 PURPOSE.

The purpose of this chapter is to prescribe licensing requirements for sexually-oriented businesses to protect the public health, safety and welfare and to prevent criminal activity and the spread of sexually-transmitted diseases. This chapter is intended to supersede the provisions of M.S. § 617.242, as it may be amended from time to time, and render M.S. § 617.242 inapplicable as authorized by the statute.

§ 115.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually-oriented Businesses* dated 6-6-1989. This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members.

Sexually-Oriented Businesses

(A) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on city crime-prevention programs and law enforcement services.

(B) Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.

(C) Sexually-oriented businesses can increase the risk of exposure to communicable diseases, including Acquired Immune Deficiency Syndrome (AIDS), for which there is currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments, but also the general public.

(D) Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(E) A licensing and regulatory scheme as prescribed in this chapter can facilitate the enforcement of the city's Anti-blight regulations, as set forth in Ch. 153 of this code of ordinances, and can aid in monitoring sexually-oriented businesses for adverse secondary effects on the community.

(F) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

§ 115.03 DEFINITIONS.

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

SEXUALLY-ORIENTED BUSINESS. Includes the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade or publicly displayed merchandise in sexually-oriented materials;

(b) Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to sexually-oriented materials; or

(c) Derives more than 25% of its gross revenues from sexually-oriented materials.

Sexually-Oriented Businesses

(2) A business that engages for any length of time in a sexually-oriented use as defined in this section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

SEXUALLY-ORIENTED MATERIALS. Visual, printed or aural materials, and other objects or devices, that:

(1) Contain, depict, simulate or describe specified sexual activities or specified anatomical areas;

(2) Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities; or

(3) Are designed for sexual stimulation.

SEXUALLY-ORIENTED USE. Any of the following activities and businesses, even if the activity exists for only a short-time.

(1) **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) **ADULT BOOKSTORE.** An establishment or business used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies or motion picture film if it meets the criteria established in the definition of Asexually-oriented business@, as defined in this section.

(3) **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display or depiction of matter that seeks to evoke, arouse or excite sexual or erotic feelings or desire.

(4) **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that provides the service of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) **ADULT HEALTH/SPORT CLUB.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Sexually-Oriented Businesses

(7) **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(8) **ADULT MASSAGE PARLOR/HEALTH CLUB.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) **ADULT MINI-MOTION PICTURE THEATER.** A business or establishment with a capacity of less than 50 persons that, as a prevailing practice, presents on-premises viewing of movies, motion pictures or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) **ADULT MODELING STUDIO.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

(11) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in division (1) of the definition of Asexually-oriented business@ defined in this section.

(14) **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Sexually-Oriented Businesses

SPECIFIED ANATOMICAL AREAS. Includes the following:

- (1) Less than completely and opaquely covered human genitals, pubic area, buttocks, anus or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes the following:

- (1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;
- (5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- (6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation or vaginal or anal irrigation.

§ 115.04 EXCEPTIONS.

This chapter does not regulate the following:

- (A) Material with significant literary content or social commentary;
- (B) A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided for off-site use or entertainment, if the sexually-oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;

Sexually-Oriented Businesses

(C) A person or organization exempted under M.S. § 617.295, as it may be amended from time to time;

(D) Activity regulated under M.S. § 617.202, as it may be amended from time to time;

(E) Displaying works of art showing specified anatomical areas, so long as no sexually-oriented materials are for sale, and the business does not have a liquor license; and

(F) Movies rated G, PG, PG-13, NC-17 or R.

§ 115.05 LICENSE REQUIRED.

No person may own or operate a sexually-oriented business within the city unless the person is currently licensed under this chapter.

Penalty, see § 115.99

§ 115.06 PERSONS INELIGIBLE.

No license may be issued to a person who:

(A) Is not a citizen of the United States or a resident alien;

(B) Is a minor at the time the application is filed;

(C) Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually-oriented business under M.S. § 364.03, subd. 3, as it may be amended from time to time, or a person not of good moral character and repute;

(D) Holds a liquor license under Ch. 112 of this code of ordinances;

(E) In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license; or

(F) Has had a license for a sexually-oriented business or similar business revoked anywhere within five years of the license application.

Penalty, see § 115.99

§ 115.07 PLACES INELIGIBLE.

No license may be issued for:

Sexually-Oriented Businesses

(A) A place or a business ineligible for a license under city ordinance or state law;

(B) Operation in a zoning district where the business is not allowed pursuant to the city's Zoning Ordinance or other local regulations;

(C) A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or

(D) Operation on a premises on which taxes, assessments or other financial claims of the city or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

(Prior Code, § 175.01) Penalty, see § 115.99

§ 115.08 LICENSE APPLICATION.

(A) The application for a sexually-oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:

(1) The business in connection with which the proposed license will operate;

(2) The location of the business premises;

(3) The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;

(4) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid and, if not paid, the years and amounts that are unpaid;

(5) Whether the applicant is the owner and operator of the business and if not, who is;

(6) Whether the applicant has ever used or been known by a name other than his or her true name and, if so, what was the name or names, and information concerning dates and places where used;

(7) Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;

(8) Street address at which the applicant and spouse have lived during the preceding ten years;

(9) Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;

(10) Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;

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(11) Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;

(12) Whether the applicant or spouse has ever been engaged as an employee or in operating a sexually-oriented business, massage business or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;

(13) Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;

(14) If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners must be designated. The interest of each partner or partners in the business must be submitted with the application and, if the partnership is required to file a certificate as to trade name under the provisions of M.S. Ch. 333, as it may be amended from time to time, a copy of the certificate must be attached to the application;

(15) If the applicant is a corporation or other organization, the applicant must submit the following:

(a) Name and, if incorporated, the state of incorporation;

(b) Names and addresses of all officers;

(c) The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and

(d) A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

(16) The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade and proof of the source of the money;

(17) A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state;

(18) Whether the applicant holds a current license for a sexually-oriented business or similar business from another governmental unit;

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(19) Whether the applicant has ever been denied a license for a sexually-oriented business or similar business from another governmental unit; and

(20) Other information that the city deems appropriate.

(B) No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.

(C) Each licensee has the continuing duty to properly notify the Director of Community Development of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for revocation or suspension of the license.

(D) The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides. Penalty, see § 115.99

§ 115.09 FEES.

(A) An applicant for a license must pay to the city the investigation fee specified by the city. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above; except that, the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.

(B) The annual fees for a license are set by the city.

(C) Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.

(D) No refund of a fee will be made, except as authorized by ordinance.

§ 115.10 GRANTING OF LICENSES.

(A) No license may be issued until the Police Department, or the County Sheriff, if the city has no Police Department, has conducted an investigation of the representations set forth in the application, the applicant's moral character and the applicant's financial status. All applicants must cooperate this investigation.

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(B) No license, except for a renewed license, may be issued for a sexually-oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in Ch. 151 of this code of ordinances, for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the state's Court of Appeals.

(C) (1) The City Council may issue a license before an investigation, notice and public hearing for an applicant who:

(a) Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;

(b) Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;

(c) Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and

(d) Otherwise qualifies and meets the requirements for a license.

(2) In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.

(D) A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.

Sexually-Oriented Businesses

(E) In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

§ 115.11 CONDITIONS OF LICENSE.

(A) A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.

(B) A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.

(C) The license must be posted in a conspicuous place in the premises for which it is used.
Penalty, see § 115.99

§ 115.12 RESTRICTIONS AND REGULATIONS.

A sexually-oriented business is subject to the following restrictions and regulations.

(A) No owner, manager or employee may allow sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

(B) No owner, manager or employee may allow a person under the age of 18 to enter the business.

(C) No owner, manager or employee may allow a person under the age of 18 to have access to sexually-oriented materials, whether by sight, purchase, touch or other means.

(D) No owner or manager may employ a person under the age of 18 on the licensed premises.

(E) No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse within the past five years.

(F) No business may exceed 10,000 square feet in gross floor area.

(G) No owner, manager or employee may allow a patron, employee or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person; except that, a live performer may touch himself or herself.

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(H) A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip or other item from a member of the audience.

(I) No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows.

(1) Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches or reclining surfaces in the rooms.

(2) Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.

(J) A licensee must not be open for business to the public:

(1) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday; and

(2) Between 1:00 a.m. and 12:00 noon on Sundays.

(K) (1) *Improper exhibitions.* In any establishment licensed to sell alcoholic beverages, beer, wine, malt liquor or other intoxicating spirits, or which is licensed as a bottle club, it shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

(a) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(b) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(c) Exposes any portion of the female breast at or below the areola thereof; or

(d) Engages in or simulates sexual intercourse or any sexual contact, including the touching of any portion of the female breast or the male or female genitals.

(2) *License suspension or revocation.* In addition to any other penalties provided for violation of this section, any liquor license or bottle club license issued by the city shall be subject to suspension, revocation or non-renewal upon violation of this section.

Sexually-Oriented Businesses

(3) *Penalty.* Any violation of this section shall be a misdemeanor and, upon conviction therefor, shall be punishable as provided by law.
(Prior Code, § 175.02) (Ord. 4-2002, passed 8-7-2002) Penalty, see § 115.99

§ 115.13 SUSPENSIONS AND REVOCATIONS OF LICENSE.

(A) *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.

(B) *Violations.*

(1) The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in division (B)(2) below. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in division (B)(2) below.

(2) Conviction of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

(C) *Prompt judicial review.* Prompt and final judicial review shall be provided to any applicant or licensee when a license is denied, suspended or revoked.

§ 115.99 PENALTY.

Except as otherwise provided by state law, a person violating a provision of this chapter is subject to the penalties established in § 10.99 of this code of ordinances. A fine or sentence imposed does not affect the right of the city to suspend or revoke the license of the licensee as the Council deems appropriate.

Sexually-Oriented Businesses

CHAPTER 116: LAWFUL GAMBLING

Section

- 116.01 Adoption of state law by reference
- 116.02 City may be more restrictive than state law
- 116.03 Purpose
- 116.04 Definitions
- 116.05 Applicability
- 116.06 Lawful gambling permitted
- 116.07 Council approval
- 116.08 Application and local approval of premises permits
- 116.09 Local permits
- 116.10 Revocation and suspension of local permit
- 116.11 License and permit display
- 116.12 Notification of material changes to application
- 116.13 Contribution of net profits to fund administered by city
- 116.14 Designated trade area
- 116.15 Records and reporting
- 116.16 Hours of operation
- 116.17 Severability

- 116.99 Penalty

§ 116.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling, 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 Council that all future amendments of M.S. Ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this chapter was adopted.

§ 116.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 349.213, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on gambling within its limits beyond those contained in M.S. Ch. 349, as it may be amended from time to time.

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§ 116.03 PURPOSE.

The purpose of this chapter is to regulate lawful gambling within the city, to prevent its commercialization, to ensure the integrity of operations and to provide for the use of net profits only for lawful purposes.

§ 116.04 DEFINITIONS.

In addition to the definitions contained in M.S. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

BOARD. The state's Gambling Control Board.

LICENSED ORGANIZATION. An organization licensed by the Board.

LOCAL PERMIT. A permit issued by the city.

TRADE AREA. Spicer, Minnesota, and each city and township contiguous to the city.

§ 116.05 APPLICABILITY.

This chapter shall be construed to regulate all forms of lawful gambling within the city, except:

(A) Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if: the prizes for a single bingo game do not exceed \$10; total prizes awarded at a single bingo occasion do not exceed \$200; no more than five bingo occasions are held by the organization or at the facility each week; only members of the organization or residents and their guests of the nursing home or housing project are allowed to play in a bingo game; no compensation is paid for any persons who conduct the bingo; and a manager is appointed to supervise the bingo; and

(B) Raffles, if the value of all prizes awarded by the organization in a calendar year does not exceed \$1,500.

§ 116.06 LAWFUL GAMBLING PERMITTED.

Lawful gambling is permitted within the city if the Council, by resolution adopted by a majority of its members authorizes lawful gambling to occur, provided it is conducted in accordance with M.S. §§ 609.75 to 609.763, inclusive, as they may be amended from time to time; M.S. §§ 349.11 to 349.23, inclusive, as they may be amended from time to time, and this chapter.

Lawful Gambling

§ 116.07 COUNCIL APPROVAL.

Lawful gambling authorized by M.S. §§ 349.11 to 349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this chapter and state law.

Penalty, see § 116.99

§ 116.08 APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS.

(A) Any organization seeking to obtain a premises permit or renewal of a premises permit from the Board shall file with the City Clerk an executed, complete duplicate application together with all exhibits and documents accompanying the application as filed with the Board. The application and accompanying exhibits and documents shall be filed not later than three days after they have been filed with the Board.

(B) Upon receipt of an application for issuance or renewal of a premises permit, the City Clerk shall transmit the application to the Chief of Police, or the Sheriff of the county in which this city is located, for review and recommendation.

(C) The Chief of Police or Sheriff shall investigate the matter and make a review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.

(D) Organizations or bingo halls applying for a state-issued premises permit shall pay the city a \$100 investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced. If approved by the City Council and the Board, a licensed organization will be responsible for an annual investigative fee for conducting lawful gambling within the city.

(E) The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

(F) The Council shall receive the Police Chief's or Sheriff's report and consider the application within 45 days of the date the application was submitted to the City Clerk.

(G) The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.

(H) The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:

(1) Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years;

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(2) Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three years;

(3) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued;

(4) Lawful gambling would be conducted at more than one premises within the city. The city may limit the number of premises where lawful gambling may be conducted;

(5) An organization would be permitted to conduct lawful gambling activities at more than one premises in the city;

(6) More than one licensed organization would be permitted to conduct lawful gambling activities at one premises;

(7) Failure of the applicant to pay any investigation fee provided by division (D) above within the prescribed time limit;

(8) Operation of gambling at the site would be detrimental to health, safety and welfare of the community.

(I) Otherwise, the Council shall pass a resolution approving the application.

§ 116.09 LOCAL PERMITS.

(A) No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by M.S. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by § 116.05 of this chapter.

(B) Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:

(1) Name and address of the organization requesting the permit;

(2) Name and address of the officers and person accounting for receipts, expenses and profits for the event;

(3) Dates of gambling occasion for which permit is requested;

(4) Address of premises where event will occur;

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(5) Copy of rental or leasing arrangement, if any, connected with the event, including rental to be charged to organization; and

(6) Estimated value of prizes to be awarded.

(C) The fee for a local permit shall be \$100. The fee shall be submitted with the application for a local permit. This fee shall be refunded if the application is withdrawn before the investigation is commenced.

(D) Upon receipt of an application for issuance or renewal of a local permit, the City Clerk shall transmit the notification to the Chief of Police or Sheriff for review and recommendation.

(E) The Chief of Police or Sheriff shall investigate the matter and make review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.

(F) The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

(G) The Council shall receive the Police Chief's or Sheriff's report and consider the application within 45 days of the date the application was submitted to the City Clerk.

(H) (1) The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:

(a) Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years;

(b) Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three years;

(c) The organization has not been in existence in the city for at least three consecutive years prior to the date of application;

(d) The organization does not have at least 15 active members at the time of its initial license application and thereafter at least 13 members eligible to vote on gambling matters;

(e) Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents;

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(f) Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued;

(g) An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city;

(h) More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises;

(i) Failure of the applicant to pay permit fee provided by division (C) above within the prescribed time limit.

(j) Operation of gambling at the site would be detrimental to health, safety and welfare of the community.

(2) Otherwise, the Council shall approve the application.

(I) Local permits shall be valid for one year after the date of issuance unless suspended or revoked. Penalty, see § 116.99

§ 116.10 REVOCATION AND SUSPENSION OF LOCAL PERMIT.

(A) A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling.

(B) A license shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by registered mail. If the person refuses to accept notice, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and shall state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter no more than seven business days after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

§ 116.11 LICENSE AND PERMIT DISPLAY.

All permits issued under state law or this chapter shall be prominently displayed during the permit year at the premises where gambling is conducted.

Penalty, see § 116.99

Lawful Gambling

§ 116.12 NOTIFICATION OF MATERIAL CHANGES TO APPLICATION.

An organization holding a state-issued premises permit or a local permit shall notify the city in writing whenever any material change in the information submitted in the application occurs within ten days of the change.

Penalty, see § 116.99

§ 116.13 CONTRIBUTION OF NET PROFITS TO FUND ADMINISTERED BY CITY.

(A) Each organization licensed to conduct lawful gambling within the city pursuant to M.S. § 349.16, as it may be amended from time to time, shall contribute 10% of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city without cost to the fund. The city shall disburse the funds for lawful purposes as defined by M.S. § 349.12, subd. 25, as it may be amended from time to time.

(B) Payment under this section shall be made on the last day of each month.

(C) The city's use of these funds shall be determined at the time of adoption of the city's annual budget or when the budget is amended.

Penalty, see § 116.99

§ 116.14 DESIGNATED TRADE AREA.

(A) Each organization licensed to conduct gambling within the city shall expend 100% of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.

(B) This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city's jurisdiction.

Penalty, see § 116.99

§ 116.15 RECORDS AND REPORTING.

(A) Organizations conducting lawful gambling shall file with the City Clerk one copy of all records and reports required to be filed with the Board, pursuant to M.S. Ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.

(B) Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by § 116.14 of this chapter. Such report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal.

Penalty, see § 116.99

Lawful Gambling

§ 116.16 HOURS OF OPERATION.

Lawful gambling shall not be conducted between 1:00 a.m. and 8:00 a.m. on any day of the week.
Penalty, see § 116.99

§ 116.17 SEVERABILITY.

If any provision of this chapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

§ 116.99 PENALTY.

Any person who violates the following shall be guilty of a misdemeanor and shall be punished as provided in § 10.99 of this code of ordinances:

(A) Any provision of this chapter;

(B) M.S. §§ 609.75 to 609.763, inclusive, as they may be amended from time to time; or

(C) M.S. §§ 349.11 to 349.21, as they may be amended from time to time, or any rules promulgated under those sections, as they may be amended from time to time.

CHAPTER 117: GARAGE AND RUMMAGE SALES

Section

- 117.01 Definition
- 117.02 Restrictions and prohibitions
- 117.03 Exceptions

- 117.99 Penalty

§ 117.01 DEFINITION.

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

GARAGE OR RUMMAGE SALE. Any display and sale of personal property, conducted on premises located in any residentially-zoned district by the occupant and which garage or rummage sale does not require a business license or make taxable sales, leases or services.

§ 117.02 RESTRICTIONS AND PROHIBITIONS.

(A) None of the items offered for sale shall have been obtained for resale or received on consignment for sale.

(B) Any garage or rummage sale (community or neighborhood sale) shall be conducted solely within the boundaries of the property owned or occupied by the occupant who is conducting the sale.

(C) There shall be no more than four garage or rummage sales conducted at any one premises during any period of 12 calendar months.

(D) No garage or rummage sale shall be conducted during any part of more than three consecutive days.

(E) No garage or rummage sale may be conducted before 7:00 a.m. or after 8:00 p.m.

Garage and Rummage Sales

(F) Any related signage shall be limited to the premises and to other residential property; provided, permission from the property owner is obtained, and shall be removed at the termination of the sale. Signs shall be limited to four square feet.

(G) There shall be no more than two consecutive sales with 30-day separation between all others. Penalty, see § 117.99

§ 117.03 EXCEPTIONS.

This chapter shall not apply to any sale under court order, nor to any bona fide auction sale, nor to a sale of farm or garden products by the person producing same.

§ 117.99 PENALTY.

It is unlawful for any person to conduct a garage or rummage sale in violation of any of the provisions of this chapter. A violation of this chapter is a misdemeanor, to be punished as provided in § 10.99 of this code of ordinances.

CHAPTER 118: PUBLIC DANCES AND SPECIAL EVENTS

Section

Public Dances

- 118.01 Regulation of public dances
- 118.02 Definitions
- 118.03 Permit required
- 118.04 Application for permit
- 118.05 Insurance
- 118.06 Location
- 118.07 Permit to be posted
- 118.08 Liquor license required
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- 118.10 Hours
- 118.11 Minors prohibited
- 118.12 Certain behavior prohibited
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- 118.14 Noise

Special Events

- 118.20 Purpose and findings
- 118.21 Definitions
- 118.22 Permit required
- 118.23 Application for permit
- 118.24 Issuance of permit, conditions and posting
- 118.25 Exceptions to the permit

- 118.99 Penalty

Public Dances and Special Events

PUBLIC DANCES

§ 118.01 REGULATION OF PUBLIC DANCES.

All public dances held in this city shall be conducted in accordance with the provisions of this chapter.

Penalty, see § 118.99

§ 118.02 DEFINITIONS.

For the purpose of this subchapter, 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.

§ 118.03 PERMIT REQUIRED.

No person shall conduct a public dance in the city unless a permit has been obtained from the City Clerk prior to the holding of the dance. The fees for a permit shall be as established by the city. In addition to this fee, the applicant shall pay the cost to the city of providing a licensed peace officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of licensed peace officers required to be present at any dance. No permit shall be issued until the fee and the cost for providing the peace officer or officers has been paid.

Penalty, see § 118.99

§ 118.04 APPLICATION FOR PERMIT.

Public Dances and Special Events

Any person desiring a permit to hold a public dance in the city shall submit an application for a permit on the form provided by the City Clerk, submitted to the City Clerk 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 chapter 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.

Penalty, see § 118.99

§ 118.05 INSURANCE.

Insurance in the amount of \$2,000,000 per event is required. 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.

Penalty, see § 118.99

§ 118.06 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 Clerk before a permit shall be issued.

Penalty, see § 118.99

§ 118.07 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.

Penalty, see § 118.99

§ 118.08 LIQUOR LICENSE REQUIRED.

No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Ch. 340A, as it may be amended from time to time, without obtaining a license from the city.

Penalty, see § 118.99

Public Dances and Special Events

§ 118.09 LICENSED PEACE OFFICER PRESENCE.

No public dance shall occur without at least one licensed peace officer or more, if more are required under the criteria established by the City Council, who shall be 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.

Penalty, see § 118.99

§ 118.10 HOURS.

No public dance shall occur between the hours of 1:00 a.m. and 12:00 noon.

Penalty, see § 118.99

§ 118.11 MINORS PROHIBITED.

No person under the age of 21 shall be allowed to be present by the permit holder or any peace officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.

Penalty, see § 118.99

§ 118.12 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 may be immediately removed from the dance by the peace officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the peace officer present may terminate the dance and remove all persons from the public dancing place.

Penalty, see § 118.99

§ 118.13 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.

Penalty, see § 118.99

§ 118.14 NOISE.

Public Dances and Special Events

All public dances shall be subject to the provisions of this code regulating noise.
Penalty, see § 118.99

SPECIAL EVENTS

§ 118.20 PURPOSE AND FINDINGS.

The purpose of this subchapter is to protect the health, safety and welfare of the citizens of this city by regulating the time, place and manner of conduct of special events and by establishing permit requirements for conducting special events as such are herein defined. The City Council finds that special events often exceed the city's capacity to provide usual city services. These city services include, but are not limited to sanitary, fire, police and utility services. The City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of these events on parking and vehicular traffic within the city.

§ 118.21 DEFINITIONS.

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

PERSON. A natural person, association, organization, club, group formed for a common purpose, partnership of any kind, limited liability company, corporation or any other legal entity.

SPECIAL EVENTS. An outdoor gathering of at least 25 individuals, whether on public or private property, assembled with a common purpose for a period of one hour or longer. ***SPECIAL EVENTS*** include, but are not limited to, concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. ***SPECIAL EVENTS*** do not include non-commercial events held on private property, such as graduation parties or social parties.

§ 118.22 PERMIT REQUIRED.

No person shall hold, conduct or participate in a special event within the city, unless a permit has been issued for such event upon timely written application made to the city.
Penalty, see § 118.99

§ 118.23 APPLICATION FOR PERMIT.

Written application for special event permits must be made at least 30 days in advance of the events

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proposed date in a form prescribed by the City Council. This application period shall not begin to run until a complete application has been filed with the city. Application forms shall be made available in the office of the City Administrator. A fee, in the amount specified by the city, shall be paid to the city along with the completed application form. In addition to the fee, the applicant shall pay all additional costs incurred by the city as a direct result of the special event. Failure to provide a complete application or to pay the fee, as herein required, is sufficient reason to deny the special event permit.

§ 118.24 ISSUANCE OF PERMIT, CONDITIONS AND POSTING.

(A) Special event permits will be issued upon City Council approval. The Council may attach reasonable conditions to the permit as are deemed necessary to protect the health, safety and welfare. Such conditions may pertain to any of the following:

- (1) Location and hours during which the event may be held;
- (2) Sanitation/availability of potable water;
- (3) Security/crowd management;
- (4) Parking and traffic issues;
- (5) Emergency and medical services;
- (6) Clean-up of premises and surrounding area/trash disposal;
- (7) Insurance in the amount of \$2,000,000 per event. All required policies shall name the city as an additional insured. Applicants shall agree to defend and indemnify the city from any and all claims;
- (8) Lighting;
- (9) Fire service/safety;
- (10) Temporary construction, barricades/fencing;
- (11) Removal of advertising/promotional materials;
- (12) Noise levels;
- (13) Alcohol consumption; and/or
- (14) Any other conditions which the Council deems necessary.

(B) (1) Upon Council approval, the City Clerk shall issue a permit to the person(s) named in the permit application.

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(2) The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in three prominent locations during the special event.

Penalty, see § 118.99

§ 118.25 EXCEPTIONS TO THE PERMIT.

The permit requirement contained in this chapter does not apply to the following:

(A) Special events sponsored and managed by the city;

(B) Funerals and funeral processions; and/or

(C) The grounds of any school, playground, place of worship, hotel conference center, stadium, athletic field, arena, auditorium or similar permanent place of assembly when used for regularly established assembly purposes.

§ 118.99 PENALTY.

(A) Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in § 10.99 of this code of ordinances, and their public dance permit is suspended immediately at the time of any arrest or citation for violating this chapter.

(B) (1) Any person who violates any condition of a special event permit or any provision of this chapter shall be guilty of a misdemeanor punishable as prescribed by § 10.99 of this code of ordinances.

(2) Enforcement of this division (B) may, at the Council's discretion, take any of the following forms:

(a) Citation/criminal prosecution;

(b) Injunctions, declaratory judgements or other civil remedies;

(c) Permit revocation; and/or

(d) Disbursement of persons gathered.

Public Dances and Special Events

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Damage to property; graffiti
- 130.02 Discharging firearms
- 130.03 Curfew for minors
- 130.04 Fireworks
- 130.05 Paint ball guns
- 130.06 Social hosting
- 130.07 Public urination and defecation

- 130.99 Penalty

§ 130.01 DAMAGE TO PROPERTY; GRAFFITI.

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

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, **GRAFFITI** shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships or any marking of any kind whatsoever which results in damage to, defacing of, marring of or discoloring of any sidewalk, street or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. The owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser or that person or persons or trust in whose name the general taxes for the last preceding year were paid; except that, **OWNER** shall not include the city.

General Offenses

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B) (1) above.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided that, the minor has not paid the fine or made restitution or reparation within the time ordered by the court; and, further provided that, the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.*

(a) In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti.

(b) In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements.

(c) In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible.

(d) In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in division (C) (1) above and this division (C) (2).

General Offenses

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by the owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

(1) The city shall have the right, but not the duty, to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) below.

(2) If the city performs the graffiti removal pursuant to division (D)(1) above, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) *Violation; penalty.*

(1) Upon a finding of guilty for violation of division (B) above, an offender shall be punished as provided in § 130.99 of this chapter. Additionally, the court may, as a condition of probation, supervision or conditional discharge, require that the party guilty of violating the provisions of division (B) above make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C) (1) above, an offender shall be punished as provided in § 130.99 of this chapter. Each and every day that graffiti is permitted to remain beyond the time specified in division (C) (2) above shall constitute a separate violation.

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(F) *Compliance by the city.*

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

Penalty, see § 130.99

§ 130.02 DISCHARGING FIREARMS.

(A) *Shooting upon, over or near a cemetery.* Except as provided by M.S. § 97A.137, as it may be amended from time to time, for wildlife management areas that are 40 acres or greater, no person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park.* Except as provided by M.S. § 97A.137, as it may be amended from time to time, for wildlife management areas that are 40 acres or greater, no person shall hunt, shoot or kill game within one-half mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division (B).

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard or other ground appurtenant to a school, church or an inhabited dwelling, the property of another or a charitable institution. Discharging firearms in the city limits is generally prohibited. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self-defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

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(F) *Conflict.* If any of the above provisions are found to be in conflict with M.S. § 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.
Penalty, see § 130.99

§ 130.03 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;
- (2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- (3) To protect minors from criminal activity that occurs during the curfew hours; and
- (4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day, as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter and other basic necessities to the minor. The person providing ***PRIMARY CARE OR CUSTODY*** to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

General Offenses

(C) *Hours.*

(1) *Minors under the age of 16 years.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

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(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and/or

(8) To a minor who is married or has been married or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave. Penalty, see § 130.99

§ 130.04 FIREWORKS.

(A) The use, display, possession, discharge or sale of any fireworks not expressly permitted by M.S. § 624.20, subd. 1(b) and 1(c), as it may be amended from time to time, is strictly prohibited.

(B) All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by M.S. § 624.20, subd. 1(b) and 1(c), as it may be amended from time to time, hereinafter referred to as *permitted consumer fireworks*, is strictly prohibited in:

(1) The area on, below, above or within or in close proximity to: recreational areas; roadways; streets; highways; bicycle lanes; pedestrian paths; sidewalks; rights-of-way; lakes; rivers; waterways and all other property owned or leased by the city, the county in which the city is located, the state or the Federal Government and located in whole or in part within the city limits;

(2) Private property within the city limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed;

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(3) Within 300 feet of any consumer fireworks retail sales facility or storage area that has posted a written sign or notice that no fireworks discharge is allowed; and

(4) Any property, area or structure that, by its physical condition or the physical conditions in which it is set, would constitute a fire or personal safety hazard.

(C) All other use, display or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

Penalty, see § 130.99

§ 130.05 PAINT BALL GUNS.

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

CITY PARK. Any property owned by the City of Spicer, which has been designated by the City Council as a **CITY PARK**.

MOTOR VEHICLE. Every vehicle which is self-propelled. **MOTOR VEHICLE** does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

PAINT BALL GUN. Any device, whether or not the in the shape or from commonly associated with pistols, handguns, rifles, shotguns or other firearms, which fires or ejects a plastic or gelatin projectile containing paint, marking dye or other similar liquid, whether fired or ejected by compressed air, CO₂, springs, mechanical force, explosive charge or otherwise.

(B) *Paint ball gun transportation and safety.*

(1) A person may not transport a paint ball gun in a motor vehicle in which any person under the age of 18 is present unless:

(a) The paint ball gun is unloaded, contains a properly installed barrel plug and is in a case expressly made to contain a paint ball gun, and the case fully encloses the paint ball gun by being zipped, snapped, buckled, tied or otherwise fastened;

(b) The paint ball gun is unloaded, contains a properly installed barrel plug, and in the enclosed trunk of the motor vehicle or an area of the motor vehicle not readily accessible by persons in the passenger compartment; or

(c) All persons under the age of 18 years are in the presence of and under the direct supervision of a parent or guardian of each such person.

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(2) A person may not discharge or fire a paint ball gun in, toward or from any motor vehicle.

(3) A person may not discharge or fire a paint ball gun within, across, into or from the right-of-way or traveled portion or any township, county or state roadway or highway.

(4) A person shall not possess, discharge or fire a paint ball gun within, into or from any city parks.

(5) Any paint ball gun found or used in violation of this section shall be impounded by the Sheriff of the county, or his or her designee, and held pending disposition of the offense, whereupon it shall be returned to the parent or guardian of the person claiming ownership.

(Ord. passed 8-22-2007) Penalty, see § 130.99

§ 130.06 SOCIAL HOSTING.

(A) *Purpose and findings.* The city intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold a person who hosts events or gatherings where persons under 21 years of age possess or consume alcohol criminally responsible, regardless of whether the person hosting the event or gathering supplied the alcohol.

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 may be harmful to those persons and constitute a potential threat to public health.

(2) Prohibiting underage consumption protects underage persons, as well as the public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic crashes.

(3) Alcohol, if used irresponsibly, could have adverse effects to those who use it as well as those who are affected by the actions of an irresponsible user.

(4) (a) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents.

(b) However, there are times when the parent(s) is/are present and condone the activity and, in some circumstances, provide the alcohol.

(5) Even though giving or furnishing alcohol to an underage person is a crime, this section is necessary to help further combat underage consumption.

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

General Offenses

(B) *Authority.* This section is enacted pursuant to M.S. § 145A.05, subd. 1, as it may be amended from time to time.

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

ALCOHOL. Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE. Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

EVENT or GATHERING. Any group of three or more persons who have assembled or gathered for a social occasion or other activity.

HOST. To aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.

PARENT. Any person having legal custody of a juvenile:

- (a) As natural parent, adoptive parent or step-parent;
- (b) As a legal guardian; or
- (c) As a person to whom legal rights have been assigned.

PERSON. Any individual, partnership, co-partnership, corporation or any association of one or more individuals.

RESIDENCE. Any home, yard, mobile home, apartment, condominium, hotel or motel room, or other dwelling unit, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased or rented.

UNDERAGE PERSON. Any individual under 21 years of age.

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(D) *Prohibited acts.* It is unlawful for any person to host or allow an event or gathering at any residence of the person, or any other public or private property, where alcohol or alcoholic beverages are present when the person knows or reasonably should know that any underage person will or does consume or possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person.

(1) A person is in violation of division (D) above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(2) A person who hosts an event or gathering as described in division (D) above need not be present at the event or gathering to be in violation thereof.

(E) *Exceptions.* This section does not apply to:

(1) Conduct solely between an underage person(s) and his or her or their parents while present in the parent's household;

(2) Legally protected religious observances;

(3) Retail intoxicating liquor or 3.2% malt liquor licensees, municipal liquor stores or bottle club permit holders who are regulated by M.S. § 340A.01, subd. 1(a)(1), as it may be amended from time to time;

(4) Situations where underage person(s) are lawfully in possession of alcohol or alcoholic beverages during the course and scope of his, her or their employment;

(5) Owners of hotels or motels who have no knowledge of the underage consumption or possession; or

(6) A municipal corporation.

(F) *Enforcement.* This section can be enforced by any law enforcement officer.
(Ord. 174.02, passed 12-7-2010) Penalty, see § 130.99

§ 130.07 PUBLIC URINATION AND DEFECATION.

No person shall urinate or defecate within the city while outside of a building or structure, under any of the following circumstances:

(A) When the person is on or in a public street, alley, sidewalk, boulevard, park or parking lot;

(B) When the person is in a private parking lot open to use by general members of the public;

(C) When the person is on private property of another without the permission of the owner; and/or

General Offenses

(D) When the person is on private property and the prohibited act is performed in a location which could allow it to be observed by others from off the property.
(Ord. passed - -) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no other penalty has been established shall be punished as provided in § 10.99 of this code of ordinances.

(B) (1) *Minors.* Any minor found to be in violation of § 130.03 of this chapter may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260B.198, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of § 130.03 of this chapter shall be guilty of a misdemeanor.

(C) (1) Any person who violates § 130.05 of this chapter is guilty of a petty misdemeanor and, upon conviction, may be punished therefor by a fine not in excess of \$200.

(2) Any person who commits a second violation of § 130.05 of this chapter is guilty of a misdemeanor, as defined by the laws of the state, and, upon conviction, may be punished therefor as provided by law.

(D) Violation of § 130.06(D) of this chapter is a misdemeanor.

(E) Violation of § 130.07 of this chapter shall constitute a petty misdemeanor.
(Ord. passed - -; Ord. passed 8-22-2007; Ord. 174.02, passed 12-7-2010)

TITLE XV: LAND USAGE

Chapter

- 150. GENERAL PROVISIONS**
- 151. ZONING**
- 152. SUBDIVISION CONTROL**
- 153. ANTI-BLIGHT REGULATIONS**
- 154. STORM AND EROSION CONTROL**
- 155. SIGNS**
- 156. SHORELAND MANAGEMENT**

CHAPTER 150: GENERAL PROVISIONS

Section

- 150.01 State Building Code
- 150.02 Contractor's license required
- 150.03 Manufactured homes
- 150.04 Amateur radio support towers
- 150.05 Location of sexually-oriented businesses
- 150.06 Compliance with code

§ 150.01 STATE BUILDING CODE.

(A) *Codes adopted by reference.* The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 16B.59 to 16B.75, 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 State Building Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration and enforcement.* The application, administration and enforcement of the code shall be in accordance with the State Building Code.

(1) The code enforcement agency of the municipality is called the ACity of Spicer@.

(2) This code shall be enforced by the state's Certified Building Official designated by this municipality to administer the code (M.S. § 16B.65, subd. 1, as it may be amended from time to time).

(C) *Permits and fees.*

(1) The issuance of permits and the collection of fees shall be as authorized in M.S. § 16B.62, subd. 1, as it may be amended from time to time.

(2) Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality in Res. 041603-01. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 16B.70, as it may be amended from time to time.

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(D) *Violations and penalties.* A violation of the code is a misdemeanor (M.S. § 16B.69, as it may be amended from time to time).
(Prior Code, § 177.02) (Ord. 1-2003, passed 4-16-2003)

§ 150.02 CONTRACTOR'S LICENSE REQUIRED.

No residential building contractor, residential remodeler or other person who is required to be licensed by the state under the provisions of M.S. §§ 326B.805 through 326B.89, as they may be amended from time to time, and no person employing a residential contractor, who is required to be licensed, shall be issued a building, zoning or land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license, but who does not have a state license, shall be reported to the state's Commissioner of Commerce, who may begin an action against the person. Penalty, see § 10.99

§ 150.03 MANUFACTURED HOMES.

After the date of the adoption of this code, only manufactured homes which comply with the Manufactured Home Building Code established by M.S. § 327.31, as it may be amended from time to time, may be located in and used as a dwelling within the city. A mobile home, manufactured home, house trailer or other mobile dwelling which does not comply with the Manufactured Home Building Code and which is used as a residence after the date of the adoption of this code is a non-conforming use as defined by M.S. § 462.357, subd. 1e, as it may be amended from time to time, and this non-conforming use may be continued, including through repair, maintenance, replacement, restoration or improvement, but if the non-conformity or occupancy is discontinued for a period of more than one year, or the non-conforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value and no building permit is applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. Penalty, see § 10.99

§ 150.04 AMATEUR RADIO SUPPORT TOWERS.

Amateur radio support structures (towers) shall not exceed a height above ground level of 70 feet, unless a conditional use permit has been granted by the City Council. They shall be mounted on the roof of a dwelling or other building or located in the rear yard unless there is not sufficient space to erect them in those locations. They shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

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§ 150.05 LOCATION OF SEXUALLY-ORIENTED BUSINESSES.

(A) *Sex-related activities as conditional uses; adult establishments.*

(1) *Purpose and intent.* It is the purpose of this section to protect the public health, safety, welfare and morals of the community, and to protect individuals and neighborhoods from the adverse effects of having activities and standards involving pandering to gross sexuality imposed on them.

(2) *Definitions.* As used in this section, the following terms will have the following meanings, unless the context clearly indicates a different meaning.

SPECIFIED ANATOMICAL AREAS.

1. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid or aroused state, whether or not covered.

SPECIFIED SEXUAL ACTIVITIES.

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(3) *Conditional uses.* None of the following uses, which shall be considered adult establishments, shall be permitted in any district unless a conditional use permit for such use has been obtained. These requirements for a conditional use permit shall be in addition to all other requirements of all other applicable sections of this subchapter:

(a) Book sales and magazine sales, where either the advertising or the displays or signs in or out of the location offer materials showing specified sexual activities or specified anatomical areas. This does not apply to the availability for sale of any material displayed in such a way that only the name of the book or magazine appears;

(b) Movie theaters offering movies or other displays showing specified sexual activities or specified anatomical areas;

(c) Any type of theater or establishment offering any kind of show emphasizing specified sexual activities or specified anatomical areas;

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(d) Any coin-operated devices and any place offering coin-operated devices which show specified sexual activities or specified anatomical areas; and

(e) Any cabaret, club or tavern offering any entertainment showing specified sexual activities or specified anatomical areas.

(4) *Procedure.* Any person desiring a conditional use permit for any use specified in this section shall apply in the manner provided by ordinance for a conditional use.

(5) *Duration.* Conditional use permits issued under this section shall expire one year after issuance and may be renewed by the same procedure that an original conditional use permit is granted. (Prior Code, § 177.10)

(B) *Sex-related activities restricted to specific areas.* In order to protect public health, welfare, morals and safety, and to prevent degradation of property values or other injury to the people of the city, conditional use permits shall issue for adult establishments offering specified sexual activities or displaying specified anatomical areas as defined in this subchapter only in areas zoned as business: B-1 and B-2. It is further provided, however, that no conditional use permit for such use or establishment shall be issued for any location which is within 1,000 feet of any residence, church or other place of religious worship, school, public park or playground. No conditional use permit shall issue for any establishment, location or use which is part of, adjacent to, or within 500 feet of any establishment licensed to sell, at off sale or on sale, any alcoholic beverage, beer, wine or intoxicating spirits, or is licensed as a bottle club.

(Prior Code, § 177.11)

(Ord. 3-2002, passed 8-7-2002)

§ 150.06 COMPLIANCE WITH CODE.

No person shall erect, alter or replace any structure within the city unless the structure complies with the applicable requirements of this code and the person has obtained a land use permit from the City Clerk certifying compliance with all of the applicable requirements of this code. No person shall use any structure or premises for any purpose other than as permitted by this code; except that, lawful non-conforming uses as of the date of the adoption of this code may continue only as provided in M.S. § 462.357, subd. 1e, as it may be amended from time to time.

CHAPTER 151: ZONING

Section

151.01 Zoning regulations adopted by reference

§ 151.01 ZONING REGULATIONS ADOPTED BY REFERENCE.

The city's land use and zoning regulations, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full. (Included herein are Ord. 2-96, 3-91, 96, 101 and 105.)

(Prior Code, § 177.01) (Ord. passed 4-6-1992; Ord. 177.03, passed 4-4-2012; Ord. 160802-03, passed 8-2-2016)

CHAPTER 152: SUBDIVISION CONTROL

Section

- 152.01 Purpose
- 152.02 Legal authority
- 152.03 Compliance
- 152.04 Savings clause
- 152.05 Exemptions
- 152.06 Definitions
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- 152.99 Enforcement and penalties
- Appendix A: Preliminary Title Opinion
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§ 152.01 PURPOSE.

(A) *General.* In order to integrate new subdivisions with the development objectives of the city and to contribute to an attractive, stable and wholesome environment, adequate public services and an integrated safe road and highway system, the subdividing of land in the city shall be required. The provisions of this chapter shall not be in effect until the provisions of Ch. 151, Zoning, become effective. If the city has in effect as of the effective date of this chapter, any ordinances regulating the subdivision of land within shorelands or floodplains, the provisions of those ordinances shall supersede the provisions of this chapter within the areas regulated. The provisions of this chapter shall not be in effect until a certified copy of this chapter is filed with the County Recorder, as required by M.S. § 462.36, as it may be amended from time to time.

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(B) *Minimum design features.* The design features set forth in this chapter are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate considering the property being subdivided.

(C) *Zoning ordinance and zoning map consistency.* Subdivisions and preliminary or final plats may only be approved if they are consistent with the city's zoning ordinance and official zoning maps, if any.

§ 152.02 LEGAL AUTHORITY.

This chapter is enacted pursuant to M.S. § 462.358, as may be amended from time to time.

§ 152.03 COMPLIANCE.

(A) Any subdivision creating parcels, tracts or lots which results in one or more parcels, tracts or lots of less than five acres shall be platted, except as provided in this chapter.

(B) The provisions of M.S. Ch. 505, as it may be amended from time to time, shall prevail over any inconsistent provisions in this chapter.

(C) No conveyance, other than those described in division (A) above, shall be recorded unless it meets the requirements of § 152.13 of this chapter.

(D) No conveyance or other document creating a subdivision of any real property other than by a duly approved plat, shall be recorded unless accompanied by a registered surveyor's drawing for recording. The surveyor's drawing shall accurately illustrate the subdivider's entire lot, parcel or tract which is subdivided by the conveyance or other document, and shall illustrate the location of any wetlands, lakes, rivers, streams or other public waters on that property. No conveyance or other document shall be recorded unless accompanied by this surveyor's drawing.

(E) Any surveyor performing a survey in the city shall file a copy of that survey with the County Recorder and the Clerk.

(F) No deed or other document purporting to subdivide property shall be recorded or certified for recording by the County Auditor, County Treasurer or County Recorder unless it meets the requirements set forth above.

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§ 152.04 SAVINGS CLAUSE.

All plats approved under this chapter are approved for city purposes only and shall not release the subdivider from any liability or obligation imposed by state statutes or federal law. In the event any provision of this chapter shall be found contrary to law by a court of competent jurisdiction from whose final judgment no appeal has been taken, such provision shall be considered void. All other provisions of this chapter shall continue in full force and effect as though the voided provision had never existed.

§ 152.05 EXEMPTIONS.

(A) The division of a surveyed lot, parcel or tract for the purpose of attachment to contiguous lots where no residual plot or lot or real property is left unattached is exempted from the provisions of this chapter, as are subdivisions conveying property to a public utility for such things as substations, poles, towers, telephone booths and the like.

(B) If the parcel can be described as a rectangular portion of a parcel of the government rectangular survey system, a surveyor's drawing will not be required.

(C) Metes and bounds subdivisions of less than five acres, as provided in § 152.03(A) of this chapter, that will be permanently attached to an adjacent contiguous parcel will be exempt from the minimum size requirements; provided, all other conditions of this chapter are complied with.

§ 152.06 DEFINITIONS.

As used in this chapter, words in the present tense shall include future tense and words used in the singular number shall include the plural number and the plural the singular. The word **SHALL** and **MUST** are mandatory and not discretionary. The word **MAY** is permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE OFFICER. The Clerk of the city or another person appointed by the City Council to administer this chapter.

ALLEY. Any strip of land, publicly or privately owned, less than 33 feet in width between property lines, set aside for public vehicular access to abutting property.

ARTERIAL ROAD or **HIGHWAY (PRIMARY).** A road or highway of considerable continuity designed primarily to serve as an interconnection link between sectors of the city and beyond (such as from within a city to outlying areas).

BACKLOT. Residential lots without water frontage located in the shoreland area of the city.

BACKSLOPE. The portion of the roadway cross-section beginning at the outside edge of the ditch bottom, sloping upward to a point where the slope intersects the existing ground line.

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CUL-DE-SAC. A road having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

DEDICATED STREET. A roadway designated for public use.

DEVELOPMENT OBJECTIVES. Those goals defined as part of the city's comprehensive planning program which indicate how the city wishes to develop itself in line with orderly and logical direction.

EASEMENT. A grant by an owner of land for the specific use of said land by the public, generally, or to a person or persons.

FEE SCHEDULE. A document setting forth the city's fees for permits, appeals, variances and subdivision filings as adopted by ordinance by the City Council as provided in § 152.15 of this chapter.

FINAL PLAT. The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the City Council for approval and which, if approved, will be submitted to the County Recorder.

INSLOPE. The portion of the roadway cross-section beginning at the outside edge of the roadway shoulder, sloping downward to the inside edge of the ditch bottom.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

METES AND BOUNDS. A description of real property which identifies a parcel of land by its shapes and boundaries, starting at a known point and describing the bearing and distances of lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

OWNER. Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PRELIMINARY PLAT. The preliminary map drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission, if the city has a Planning Commission, and City Council for their consideration.

PUBLIC ROAD. A particularly described and identified right-of-way, at least 33 feet in width, dedicated to public use for road or highway purposes.

SERVICE ROAD. A public road having a traveled surface of at least 24 feet in width lying parallel and adjacent to an **ARTERIAL ROAD** or **HIGHWAY** and which provides access to abutting properties

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and protection from through traffic.

STRUCTURE. Any building or appurtenance, including, but not limited to, vision obstructing fences, decks, retaining walls, satellite dishes, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, tower poles and other supporting facilities.

SUBDIVIDER. Any person commencing proceedings under this chapter to affect a subdivision of land for himself or herself or for another.

SUBDIVISION. A parcel of land which is divided.

§ 152.07 PLATTING PROCEDURES.

(A) *Generally.* The following procedures shall be followed in the administration of this section and no real property within the jurisdiction of this section shall be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held, a preliminary plat has been reviewed and approved and until a final plat has been reviewed and approved as set forth in the procedures provided herein.

(B) *Pre-application meeting.* Prior to the submission of any plat for consideration by the Planning Commission, if the city has a Planning Commission, under the provisions of this chapter, the subdivider may meet with the administrative officers to introduce himself or herself as a potential subdivider and learn the relevant requirements of the city's code.

(C) *Preliminary plat.*

(1) *Submission of plat.* The subdivider shall submit to the administrative officer ten copies of a preliminary plat of his or her proposed subdivision, the requirements of which are set forth in this chapter. They shall be filed at least 30 days prior to a regularly scheduled Planning Commission meeting, if the city has a Planning Commission, or a Council meeting, and shall be accompanied by the fees set forth in the fee schedule.

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(2) *Notice procedure.* Notice of the public hearing at which the Planning Commission, if the city has a Planning Commission, will consider the preliminary plat shall be made by the administrative officer pursuant to M.S. § 462.358, subd. 3b, as it may be amended from time to time. The owner or subdivider shall also be notified as to the time and place of the public hearing. As required by M.S. § 505.03, as it may be amended from time to time, at least 30 days prior to taking final action on a preliminary plat, the proposed preliminary plat must be presented by the administrative officer to the Commissioner of Transportation for review if the plat includes or borders on a trunk highway or state rail bank property. Within five days after receiving a preliminary plat that includes or borders on an existing or proposed county road or state rail bank property, the administrative officer must submit it to the County Engineer for review. The Commissioner of Transportation and the County Engineer must report to the city within 30 days with any comments and recommendations they may have. No preliminary plat may be approved by the city until these comments and recommendations are received and considered. Within ten days after approval of the preliminary plat, notice must be sent to the Commissioner and the County Board explaining how their comments and recommendations have been met.

(3) *Public hearing.* At the public hearing set for consideration of the preliminary plat, the Planning Commission, if the city has a Planning Commission, or the City Council shall consider comments to the notice of plat, and it shall also review the preliminary plat from the standpoint of environmental impact, compatibility with surrounding area, suitability of area for subdividing, public health and welfare, crowding potential, the compatibility with the city Comprehensive Plan and overall city planning.

(4) *Planning Commission action.* At the conclusion of the public hearing set forth in division (C)(3) above, the Planning Commission, if the city has a Planning Commission, shall either recommend approval, conditional approval or denial of the preliminary plat. The Planning Commission may also table the preliminary plat for future consideration. The Planning Commission shall not recommend approval of a preliminary plat unless the presentation requirements set forth in § 152.08 have all been met. No lot on the preliminary plat shall be recommended for approval if, in the opinion of the Planning Commission, a lot does not have dedicated road access, an adequate building site or sufficient area for an on-site individual sewage treatment system in areas where public services are not available, meeting the requirements of all rules and regulations in this chapter and the code of the city. The action of the Planning Commission shall be stated in writing setting forth the conditions of approval, reasons for approval or the reasons for denial. The Planning Commission's recommendation shall then be submitted to the City Council.

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(5) *City Council action.* The City Council shall consider the Planning Commission's action, if the city has a Planning Commission, at its next regularly scheduled meeting, and shall either approve, approve with conditions, deny or table for future consideration the application. As required by M.S. § 462.358, subd. 3b, as it may be amended from time to time, the Council must either approve or deny the application for a preliminary plat within 120 days after the application has been submitted, unless an extension of time has been agreed to in writing by the subdivider. The 120-day period does not begin to run until the application contains all of the information required by §§ 152.08(B) and 152.09 of this chapter. Failure to comply with the time limits for approval in M.S. § 462.358, subd. 3b, as it may be amended from time to time, may result in automatic approval of a preliminary plat. The Council shall not approve a preliminary plat unless the presentation requirements set forth in § 152.08 have all been met. No lot on the preliminary plat shall be approved if, in the opinion of the Council, a lot does not have dedicated road access, an adequate building site or sufficient area for an on-site individual sewage treatment system in areas where public services are not available, meeting the requirements of all rules and regulations in this chapter and the code of the city. The action of the Council shall be stated in writing, setting forth the conditions of approval, reasons for approval or the reasons for denial. **APPROVAL** shall mean the acceptance of the design as a basis for preparation of the final plat, and the submission of such final plat for approval. Approval by the City Council of all engineering proposals presented in the preliminary plat which pertain to such things as water supply, sewage disposal, storm drainage, gas and electric service, road gradients and widths and the surface of roads is required prior to the approval of the final plat. The Council may, after notifying the subdivider, employ qualified persons to check and verify each proposal, the costs of such services shall be paid by the subdivider.

(D) *Final plat.*

(1) *Filing of the final plat.*

(a) The owner or subdivider shall file with the administrative officer within one year of the date of the approval of the preliminary plat the final plat which shall substantially conform to the preliminary plat as approved (see § 152.08(C) of this chapter for filing document requirements) and all applicable city regulations and ordinances, state and federal rules, regulations and laws.

(b) Final plat approval shall not be granted to any plat which is not filed within the time herein specified, unless an extension is requested in writing and for good cause, granted by the City Council. The final plat shall be presented to the City Council at a scheduled meeting which is at least two weeks after the date of filing with the administrative officer.

(2) *Contents.* The subdivider may file a final plat limited to such portion of the preliminary plat which the subdivider proposed to record and develop at one time; provided that, such portion must conform to all requirements of this chapter. Lots which have received preliminary approval, but are not included on the final plat must be considered as a new subdivision.

(3) *Review.* The administrative officer shall check the final plat to see that it is in substantial conformity with the preliminary plat as approved by the City Council and that it meets all applicable city regulations and ordinances, state and federal rules, regulations and laws.

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(4) *City Council action.*

(a) Final plat approval shall not be granted unless all presentation requirements of § 152.08 of this chapter have been met and the plat conforms to all applicable city regulations and ordinances, state and federal rules, regulations and laws.

(b) The City Council shall approve, deny or table the final plat, and the Clerk shall notify the owner or subdivider of the Board's actions within 60 days of the submittal of the final plat, as required by M.S. § 462.358, subd. 3b, as it may be amended from time to time, unless an extension of time has been agreed to in writing by the subdivider. Failure to meet the time limit requirements of M.S. § 462.358, subd. 3b, as it may be amended from time to time, may result in automatic approval of the final plat.

(c) The final plat, if approved, shall then be recorded with the County Recorder by the subdivider. If any irregularity prevents recording of the final plat, the County Auditor shall notify the owner or subdivider.

(d) Any approval of the final plat by the Council shall be null and void if the plat is not recorded with the County Recorder within 90 days after the date of approval unless application for an extension of time is made, in writing, during said 90-day period, to the City Council and for good cause granted by the Council.

§ 152.08 PLATTING PRESENTATION REQUIREMENTS.

(A) *Lot suitability.* Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(B) *Preliminary plat.*

(1) Preliminary plat must be prepared by a state registered land surveyor and certified as such. Plats must conform to the technical requirements of M.S. § 505.021, as it may be amended from time to time.

(2) Scale: one inch equals 100 feet, if possible, but not smaller than one inch equals 200 feet.

(3) Identification and description:

(a) Proposed name of subdivision, which name shall not duplicate or closely resemble the name of any plat previously recorded in the city;

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- (b) Location by section, township, range or by other identifying description;
 - (c) Names and addresses of the owner, subdivider, surveyor and designer of the plan;
 - (d) Graphic scale;
 - (e) North point;
 - (f) Date of preparation; and
 - (g) A dedication statement as required by M.S. § 505.021, subd. 2, as it may be amended from time to time, describing what part of the subdivision land is dedicated, to whom and for what purpose.
- (4) Existing conditions in tract and in surrounding area to a distance of 300 feet:
- (a) Boundary line of proposed subdivision, clearly outlined and dimensioned;
 - (b) Total acreage and total water frontage (shoreland areas) and water boundaries;
 - (c) Platted roads, rights-of-way and utility easements;
 - (d) Boundary lines and ownership of adjoining land;
 - (e) Sewers, water mains or wells, culverts or other underground facilities;
 - (f) Plans for the provision of potable water, sewage disposal, drainage and flood control;
 - (g) Existing structures;
 - (h) Summary of soil and vegetation types (terrestrial and aquatic);
 - (i) Lakes, watercourses and wetlands and such other information as soil tests, location of the ordinary high water level and contours at vertical intervals of not more than ten feet. All elevation data shall be mean sea level or some other assumed, workable datum;
 - (j) Evidence that the ground water level is at least three feet below the level of finished grades or plans for resolving any ground water problems; and
 - (k) All other information required by M.S. § 505.021, as it may be amended from time to time.
- (5) *Subdivision design features.*
- (a) Layout and width of proposed road rights-of-way and utility easements, showing road

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names, approximate lot dimensions, parks and other public areas. All roads must be identified. The road right-of-way layout shall include all contiguous land owned or controlled by the subdivider;

- (b) Proposed use of all parcels, and if zoning change is contemplated proposed rezoning;
- (c) Preliminary road grades and drainage plans shall be shown on a copy of the contour map;
- (d) Statement of proposed protective covenants;
- (e) Statement of source of water supply;
- (f) Statement of provisions for sewage treatment. In areas where a public sewage treatment system is unavailable, a lot must contain sufficient suitable area for the installation of two standard on-site sewage treatment systems. Lots that would require use of holding tanks shall not be approved; and
- (g) Easement dedications must be provided over natural drainage or ponding areas for management of storm water and significant wetlands. Provisions for surface water drainage and flood control must be provided.

(6) *Preliminary title opinion.* The subdivider shall provide a preliminary title opinion, prepared by an attorney of the subdivider's choosing, in substantial conformity with the form set forth as Appendix A to this chapter.

(7) *On-site.* Within 14 days of submitting the preliminary plat, the subdivider must clearly stake and identify the tentative proposed lot corners and the proposed centerline of the road serving the proposed subdivision.

(C) *Final plat.* The final plat shall include the following:

(1) Such information as was found necessary for review and requested by the Planning Commission, if the city has a Planning Commission, or City Council;

(2) (a) Data requirements as set forth in M.S. Ch. 505, as it may be amended from time to time; and

(b) All interior and exterior boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle and radii and arc lines for all curves. Durable iron monuments shall be set at each angle and curve point on the interior and exterior boundary lines and at all block corners and at all intermediate points on the block or lot lines indicating a change of direction in the lines. The plat shall indicate that the monuments have been set.

(3) An identification system for all lots and blocks. All lots shall be numbered consecutively;

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(4) The area (in square feet) and dimensions of all lots in feet;

(5) The subdivider shall submit two hardshells, one transparency copy and six duplicate copies of the final plat;

(6) All signatures on the plat must be in black ink;

(7) Certification by a registered land surveyor to the effect that the plat represents a survey made by him or her and that monuments and markers shown thereon exist as located and that all dimensional and geodesic details are correct;

(8) Notarized certification by the fee owner, any contract for deed vendees and by any mortgage holder of record, of the adoption of the plat and the dedication of roads and other public areas as required by M.S. § 505.021, subd. 3, as it may be amended from time to time;

(9) Certification showing that all taxes, special assessments and utility charges currently due on the property to be subdivided have been paid in full for the calendar year in which the plat is filed;

(10) Form for approval by the registered land surveyor: AI hereby certify that I have reviewed this plat and found it to be in compliance with the surveying requirements of the Subdivision Control Ordinance of the City and Minnesota Statutes Ch. 505. @

(11) The subdivider shall provide the County Auditor’s office with a final title opinion prepared by the attorney who prepared the preliminary title opinion in substantial conformity with the form set forth as Appendix B to this chapter, within 14 days of the final plat being recorded. The attorney shall also sign the following statement on the face of the plat prior to filing: AI hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution. @

(12) Form for mortgage statement:

I hereby attest to the fact that there are no mortgages, other than shown, outstanding against any of the property in this subdivision.

Signed _____ Dated _____.
Subdivider

(13) Form for comparison by Administrative Officer:

Comparison with Preliminary Plat made this _____ day of _____, _____.

Signed _____
City Administrative Officer

(14) Form for approval by City Council:

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Accepted and approved by the City Council of the city of _____, Minnesota,
this _____ day of, _____, _____.

Signed _____
Mayor Signed

Signed _____
City Clerk

(15) Form for approval by County Treasurer:

I hereby certify that the taxes for the year _____ for the lands described within are
paid.

Signed _____ Dated _____
County Treasurer

(16) Form for approval by County Auditor:

No delinquent taxes and transfer entered. Dated _____

Signed _____
County Auditor Signed

Signed _____
Deputy Auditor

(17) Form for approval by County Recorder:

I hereby certify that the within instrument was filed in this office for record on
the _____ day of _____, at _____ o'clock _____ .M, and was duly recorded in Book
of _____ on page _____.

Signed _____
County Recorder Signed

Signed _____
Deputy Recorder

§ 152.09 PLAT DESIGN STANDARDS.

(A) *Roads.* The design of all roads shall be considered in relation to existing and planned roads, to
reasonable circulation of traffic, topographical conditions, to run off of storm waters and to the proposed
uses of the areas to be served.

(1) Where adjoining areas are not subdivided, the arrangement of roads in new subdivisions

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shall make provisions for the proper projection of roads. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new road shall be carried to the boundaries of such unsubdivided land. Where new roads extend existing adjoining roads, their projections shall be at the same or greater width, but in no case, less than the minimum required width.

(2) The minimum road design standards of the city, including road width and grade standards, shall be observed by the subdivider, as set forth in Appendix C.

(3) Straight segments of at least 50 feet in length shall be introduced between reverse curves on city streets and alleys.

(4) Insofar as practical, road intersections shall be at right angles and no intersection shall be at an angle of less than 45 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.

(5) Private roads shall not be approved, nor shall public improvements be approved for any previously existing private road.

(6) Where a proposed plat is adjacent to a highway, the City Council may require the subdivider to provide a service road along the right-of-way.

(7) The road arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(8) At road intersections, curb lines shall be rounded at a radius of not less than 15 feet.

(B) Easements.

(1) Utility easements at least ten feet wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights-of-way. They shall have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.

(2) Where a subdivision is traversed by a watercourse, drainage way, channel or road, there shall be provided a storm water easement or drainage right-of-way substantially with the lines of such watercourse, together with such further width or construction or both as will be adequate for stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

(C) Lots.

(1) Where possible, side lot lines shall be at right angles to straight or radial to curved road lines. Each lot shall front on a public road or highway. Lots with frontage of two parallel roads shall be permitted only under unusual circumstances.

(2) Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can

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show plans consistent with the purpose of this chapter for the future use of such remnants.

(3) Lots must be designed and have adequate size to meet the zoning requirements of the zoning district in which they are located related to setbacks, width and required yard sizes. Lots must also be of adequate size to allow off-street parking, loading areas and such other facilities as are required by the zoning ordinances of the city. If the city does not have zoning ordinances in place, or if there are portions of the city not zoned, but where subdivision is occurring, the following minimum lot sizes shall apply:

(a) For residential lots intended for single- and two-family dwellings:

1. Width of not less than 80 feet at the right-of-way line of inside street curvature;
- and
2. Width of not less than 65 feet at the right-of-way line of outside street curvature (including cul-de-sac).

(b) For residential lots intended for multiple-family dwelling of three or more families living independently of one another:

1. Width of not less than 130 feet at the right-of-way line of inside street curvatures;
- and
2. Width of not less than 80 feet at the right-of-way line of outside street curvatures (including cul-de-sac).

(4) All lots must have a minimum of 30 feet in width at the rear lot line.

(5) Lots abutting on a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.

(6) On lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the city an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.

§ 152.10 REQUIRED IMPROVEMENTS.

(A) As a condition of approval of a final plat and before the City Council approves a final plat, the subdivider shall give satisfactory assurance of the provision of the following requirements.

(1) *Monuments.* Steel monuments shall be placed at all block corners, angle points, points of curves in roads and at intermediate points as shown on the final plat. All U.S., state, city or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

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(2) *Roads.* All roads shall be improved in accordance with the road design standards as specified in Appendix C.

(a) Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.

(b) Street signs of the design approved by City Council shall be installed at each street intersection.

(c) Driveway approaches and sidewalks of a standard design or pedestrian pathways as may be required by the City Council shall be installed.

(d) Street lighting fixtures as may be required by the City Council shall be installed.

(3) *Water supply.* Wherever connection with a community or public water system is possible, the public water shall be used. In other case, individual wells shall be used. Either shall be provided in accordance with state and city regulations.

(4) *Sanitary sewer.* Wherever trunk line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers and connect the same to such trunk line sewers. In other cases, individual on-site sewage treatment systems shall be used. Either shall be provided in accordance with state and city regulations.

(5) *Storm water management.*

(a) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water runoff before discharge to public waters.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features and soil runoff using natural features, and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(6) *Landscaping.* All developments shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. All areas not covered by buildings, streets, sidewalks, parking lots, driveways or similar hard surface materials shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state. All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing

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of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than one and one-quarter inches, but not more than three inches caliper for balled and burlapped trees, and not less than three inches, but not more than six inches' caliper for spade-moved trees. Coniferous trees will not be less than six feet in height, but no more than eight feet for balled and burlapped trees, and not less than eight feet in height, but not more than 14 feet for spade-moved coniferous trees. The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

(7) *Erosion and sediment control.* The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion. If determined necessary by the City Engineer, the subdivider shall be required to submit an erosion and sediment control plan. Erosion and sediment control measures shall be consistent with best management practices (BMPs) for erosion and sedimentation control as specified in the *Minnesota Storm Water Manual* (MPCA, 2005), as amended, and shall be sufficient to retain sediment on site. Erosion and sediment controls shall meet the standards for the general permit authorization to discharge storm water associated with construction activity under the national pollutant discharge elimination system/state disposal system permit program permit MN RI00001 (NPDES general construction permit) issued by the state's Pollution Control Agency, as amended. Final stabilization of the site must be completed in accordance with the NPDES construction permit requirements.

(B) All required improvements shall be installed by the subdivider; except that, the city reserves the right to elect to install all or part of the improvements required under the provisions of this title pursuant to M.S. Ch. 429, as it may be amended from time to time. If the city elects to install the improvements the city may require the developer to post a cash escrow or letter of credit guaranteeing payment of the assessments.

(C) Satisfactory assurance that all required improvements shall be provided shall include:

(1) Entering into a development contract setting forth the conditions under which the plat is approved and setting forth required improvements;

(2) Furnishing the city financial security in the form of a cash escrow or letter of credit. Letters of credit must be from a state or federally chartered bank or savings and loan association, insured by the Federal Deposit Insurance Corporation that has an office in the state or a subsidiary of such bank or savings association with an office in the state. If the subdivider fails to perform any obligations under the development contract, the city may apply the security to cure the default.

(a) If the subdivider is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

1. Utilities;
2. Streets;
3. Streetlights and operating cost for one year (if any are required);

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4. Erosion control;
5. Engineering, to include developer's design, surveying and inspection;
6. Landscaping (if any is required);
7. Storm sewer connection charges;
8. Principal amount of special assessments previously levied against the property together with one year of interest;
9. Real estate tax for one year, if there are special assessments;
10. City engineering fees;
11. Sanitary sewer area charges (if any are required);
12. Lateral sanitary sewer and water main access charges;
13. Wetland mitigation (if any is required);
14. Custom graded lots (if any is required);
15. Removal of buildings and temporary improvements (if any is required);
16. Tree preservation; and
17. Lot corners/iron monuments.

(b) If the city is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

1. Principal amount of special assessments for public improvements to be installed together with one year of interest;
2. Streetlights (if any are required);
3. Erosion control;
4. Landscaping;
5. Storm sewer connection charges;
6. Real estate tax for one year; and

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7. Principal amount of special assessments previously levied against the property together with one year of interest.

(3) The city shall require of a subdivider submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements or such lesser amount as agreed to by the City Engineer. The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two years from the date of final acceptance or one year following final acceptance of the final bituminous wearing surface as approved by the City Engineer. The required period for sod, trees and landscaping is one growing season.

(D) No final plat shall be approved by the Council without first receiving a report from the City Engineer that the improvements described therein, together with the agreements and documents required under this section, meet the requirements of the city.

(E) No final plat shall be approved by the Council without first receiving certification from the City Clerk, Administrator or Finance Officer that all fees required to be paid to the city in connection with the plat have been paid or that satisfactory arrangements have been made for payment.

§ 152.11 DEDICATION REQUIREMENTS.

(A) As a condition of subdivision approval, subdividers shall dedicate a portion of any proposed subdivision for conservation purposes or for public use as parks, recreational facilities, as defined and outlined in M.S. § 471.191, as it may be amended from time to time, playgrounds, trails, wetlands or open space; provided that, the city may choose to accept an equivalent amount in cash for part or all of the portion required to be dedicated based on the fair market value of the land following the criteria of M.S. § 462.358, subd. 2b, as it may be amended from time to time.

(B) Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location. Land with trash, junk, pollutants, flooding or wetlands and unwanted structures is generally not acceptable.

(C) The Planning Commission, if the city has a Planning Commission, and the City Council shall determine the land and/or cash contribution requirements for proposed subdivisions.

(D) Any increase in density of subdivisions shall be reviewed for reconsideration of park land and/or cash contribution requirements.

(E) When a proposed park, playground, recreation area or other public ground has been indicated in the city's official map or comprehensive plan and is located in whole or in part within a proposed subdivision, it shall be designated as such on the plat and shall be conveyed to the city. If the subdivider elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the city may consider acquiring the site through purchase or condemnation.

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(F) Land area conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinances and shall be in addition to and not in lieu of open space requirements for planned unit developments.

(G) Where private open space for park and recreation purposes is provided in a proposed subdivision, these areas may be used for credit, at the discretion of the City Council, against the land or cash dedication requirement for park and recreation purposes, provided the City Council finds it is in the public interest to do so.

(H) The dedication requirements are presumptively appropriate. A subdivider may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. The request must be made before final subdivision approval by the city.

(I) (1) In residential subdivisions where a land dedication is required, the following formula will be used to determine the dedication requirement:

<i>Density: Units Per Acre</i>	<i>Land Dedication Percentage</i>		
0	B	2.5	10%
2.5	B	4	11%
4+	B	6	13%
6+	B	8	15%
8+	B	10	17%
10+	B	17% - 20%	

(2) In commercial or industrial subdivisions where a land dedication is required, the following formula will be used to determine the dedication: 5% of the gross area of land being platted.

(J) In lieu of land dedication the city may require cash fees established pursuant to M.S. § 462.358, subd. 2b, as it may be amended from time to time, for commercial, industrial, multi-family dwelling units and single-family dwelling units, in amounts established in a separate ordinance.

(K) The city may elect to receive a combination of cash, land and development of the land. The fair market value of the land the city wants and the value of the development of the land shall be calculated. That amount shall be subtracted from the cash contribution required by division (J) above. The remainder shall be the cash contribution requirement.

(L) Fair market value shall be determined as of the time of final subdivision approval in accordance with the following:

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(1) The city and the developer may agree as to the fair market value;

(2) The fair market value may be based upon a current appraisal submitted to the city by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are approved members of the SREA or MAI, or equivalent real estate appraisal societies; or

(3) If the city disputes such appraisal the city may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

(M) Planned developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.

(N) Cash contributions are to be calculated at the time of final subdivision approval. The Council may require the payment at the time of final subdivision approval or at a later time under terms agreed upon in the development agreement. Delayed payment shall include interest at a rate set by the city.

(O) Cash contributions shall be deposited in the Park Dedication Fund and shall only be used for the acquisition of land for the purposes set forth in division (A) above, and the planning and development of land for such purposes.

(P) Property being subdivided without an increase in the number of lots shall be exempt from park and trail dedication requirements if similar requirements were satisfied in conjunction with an earlier subdivision. If the number of lots is increased, then the dedication shall be based on the additional lots created.

§ 152.12 PROTECTED AREAS AND TREE PRESERVATION.

(A) *Protected areas.* Where land proposed for subdivision is deemed environmentally sensitive by the city due to the existence of wetlands, drainage ways, watercourses, floodable areas, significant trees, steep slopes or wooded areas, the design of said subdivision shall clearly reflect all necessary measures to ensure against adverse environmental impacts. Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots. In general, measures of protection shall include design solutions that allow for construction and grading involving a minimum of alteration to sensitive areas. Such measures, when deemed appropriate by the city, may include, but shall not be limited to, the following:

(1) The establishment of buffers designed consistent with adopted management plans, if any, easements and/or outlots over wetlands, drainage ways and watercourses as approved by the City Engineer;

(2) The implementation of flood control measures, including ponding and infiltration design standards as specified in adopted management plans, if any, and approved by the City Engineer;

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- (3) The enlargement of lots or redesign of the subdivision;
- (4) The submission of a tree preservation plan subject to the approval of the City Council;
- (5) The utilization of appropriate erosion control measures subject to approval by the City Engineer;
- (6) Soil testing to determine the ability of the proposed subdivision to support development;
- (7) The limitation of development on slopes steeper than three to one (3:1); and
- (8) Structure conformance to the natural limitations presented by the topography and soil so as to create the least potential of soil erosion, as determined by the City Engineer.

(B) *Tree preservation.* The following process for preserving significant trees shall be required of subdividers. Subdividers shall preserve, where feasible, all healthy trees of significant value even if the trees are less than six inches in diameter.

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

DIAMETER. The measurement of a tree's trunk measured four and one-half feet above the ground.

DRIP LINE. The farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of the tree or one foot per one inch of diameter, whichever is greater.

SIGNIFICANT TREE. A healthy tree measuring six inches in diameter or greater.

TREE CERTIFICATION. A certified inventory of trees on the site after work is complete listing all trees and their final disposition, which is signed by a licensed forester or landscape architect.

TREE PRESERVATION PLAN. A plan and inventory certified by a forester or landscape architect indicating all of the significant trees and their locations in the proposed development or on the lot. The **TREE PRESERVATION PLAN** shall include the size, species, tag numbers and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.

TREE PROTECTION. Snow fencing or polyethylene laminar safety netting placed at the drip line of the significant trees to be preserved. The **TREE PROTECTION MEASURES** shall be shown on tree preservation plan drawings and remain in place until all grading and construction activity is terminated.

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(2) Subdivider responsibilities. Subdividers shall:

(a) Prepare a tree preservation plan. Such plan shall be superimposed on the grading plan, if any; and

(b) Ensure the tree preservation plan is followed during the plan development, including any mass grading.

(3) The tree preservation plan must be certified by a forester or landscape architect. The forester or landscape architect shall indicate on the plan the following items:

(a) Graded areas and proposed grades;

(b) Size, species, tag numbers and location of all significant trees;

(c) Identification of all significant trees proposed to be saved and significant trees proposed to be removed; and

(d) Measures proposed to protect significant trees shall include, but are not limited to:

1. Installation of snow fencing or polyethylene-laminar safety netting at the drip line;

2. Placing fill against the trunk of the tree, on the root crown and under the drip line of the tree shall be prohibited;

3. Installation of erosion control measures;

4. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials such as fuels or paints; and

5. Pruning of oak trees must not take place from April 15 through July 1. If wounding of oak trees occurs, a non-toxic tree wound dressing must be applied immediately. Excavators must have a non-toxic tree wound dressing with them on the development site.

(4) During preliminary plat review, the tree preservation plan will be reviewed according to the best available layout to preserve significant trees and the efforts of the subdivider to mitigate damage to significant trees.

(5) The subdivider shall provide a financial guarantee as part of the development contract in an amount necessary to guarantee replacement of all significant trees which were to have been saved but were actually destroyed or damaged.

(6) After grading has been completed and streets and utilities installed, the forester or landscape architect shall:

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(a) Certify in writing to the city the status of all trees indicated as save trees in the approved plan;

(b) Certify in writing to the city whether tree protection measures were installed; and

(c) Certify the status of any remove designated trees that were saved.

(7) If a significant tree indicated to be saved on the tree preservation plan is destroyed or damaged, tree replacement as required by this chapter will be enforced by the city.

(8) The financial security required in division (B)(5) above will be released upon certification in writing by the forester or landscape architect indicating the tree protection measures were installed on graded lots and tree replacement is completed, if necessary;

(9) Removal of tree preservation measures shall require written approval from the City Engineer. Tree preservation measures shall not be removed from the site until the City Engineer has approved the grading as built plans for a mass graded site, nor prior to the release of financial securities held by the city.

(10) Tree Replacement Policy. Subdividers shall be required to replace the significant trees which were indicated on the tree preservation plan to be saved, but ultimately were destroyed or damaged. The subdivider and builder shall be required to replace each of the significant trees destroyed or damaged with two replacement trees. Replacement trees must consist of nursery stock and be no less than the following sizes:

(a) *Deciduous trees*. No less than two and one-half-inches in diameter; and

(b) *Coniferous trees*. No less than six feet high.

(11) Replacement trees shall be species similar to the trees which were destroyed or damaged and shall comply with the requirements of § 152.10 of this chapter.

(12) Replacement trees shall not be placed on easements or street rights-of-way. The city shall determine the locations of tree replacement for subdivider's tree plans.

§ 152.13 METES AND BOUNDS STANDARDS.

No subdivision of real property in which the divided tract is described by metes and bounds shall be permitted, unless all tracts meet the following standards:

(A) Each lot, located in a shoreland area or containing a wetland area must be a minimum of five acres in size and all other lots must be a minimum of two and one-half acres in size;

(B) Certification of public road access;

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(C) All roads must be identified on the surveyor's drawing;

(D) Sufficient suitable area for the installation of two standard on-site sewage treatment systems;

(E) A registered surveyor's drawing accompanies the document creating the subdivision for recording, as required by § 152.03(D) of this chapter; and

(F) The surveyor's drawing contains the following form for signature by the property owner: AI hereby certify that the subdivided property described in this survey meets the city requirements for public road access and sewage treatment systems.®

§ 152.14 ADMINISTRATION.

(A) *Variances from standards.* In any case where, upon application of any subdivider to the Board of Adjustment, it appears by reason of exceptional circumstances, that the strict enforcement of any provision of the standards would cause unusual hardship under the circumstances, the Board of Adjustment may permit a variance therefrom upon such conditions as it may prescribe consistent with the general purposes of this chapter and the intent of this and all other applicable state and local regulation.

(B) *Appeals.* The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by any city administrative officer charged with enforcing any provision of this chapter.

§ 152.15 FEES.

As provided by M.S. § 462.353, subd. 4, as it may be amended from time to time, fees may be established as follows.

(A) The Council may, in a separate ordinance, prescribe fees sufficient to defray the costs incurred in reviewing, investigating and administering applications for a preliminary or final plat, or an application for some other approval required under this chapter.

(B) These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The city shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

(C) If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

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§ 152.99 ENFORCEMENT AND PENALTIES.

(A) This chapter shall be administered and enforced by the administrative officer who is hereby designated the enforcing officer.

(B) Any violation of the terms and provisions of this chapter shall constitute a misdemeanor and shall be punished as provided in § 10.99 of this code of ordinances. All fines paid for violations shall be credited to the city's General Revenue Fund. Each 24-hour day that a violation continues shall constitute a separate offense.

(C) In the event of a violation or threatened violation of this chapter, the City Council and/or the administrative officer, in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the City Attorney to institute such action. This will include, but not be limited to, mandamus, injunction or any other appropriate remedy in any court of competent jurisdiction.

(D) A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this section is guilty of a misdemeanor and shall be punished as provided by § 10.99 of this code of ordinances.

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APPENDIX A: PRELIMINARY TITLE OPINION

City Council of the City of _____

RE: Plat of _____

Subdividers _____

Preliminary Opinion

I hereby certify that I have examined the above-described plat including the signatories thereon and an abstract of title consisting of entries _____ through _____ inclusive, last certified by (Abstract Co.) to the hour of 8:00 a.m. on _____. From such examination I conclude that good record title in fee simple absolute is in the subdividers' so as to vest in the public those right-of-way rights and easement rights as in the plat, subject to the following:

- 1.
- 2.
- 3.

which shall be cured prior to the recording of the plat. I further agree to furnish the Final Title Opinion following the recording of the plat as required by Chapter 152 of the City Code of Ordinances.

Sincerely,

Subdivision Control

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APPENDIX B: FINAL TITLE OPINION

City Council of the City of _____

RE: Plat of _____

Subdividers _____

Gentlemen:

Final Opinion

I hereby certify that I have examined all records relating to the above described plat in the office of the County Recorder from the date of the abstract of title to _____, the date the plat was recorded. From such examination I conclude:

1. That all defects cited in the Preliminary Opinion have been cured;
2. That as of the date of recording, good record title in fee simple absolute was in the subdividers;
and
3. That the public is vested with those right-of-way rights and easement rights as in the plat indicated.

Sincerely,

Subdivision Control

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APPENDIX C: MINIMUM ROAD STANDARDS

1. All construction of roads dedicated for public use shall be in compliance with the Minnesota Department of Transportation State Aid Design Standards for Roads as well as the following minimum standards.
2. All roads dedicated for public use or for the use of lot owners on a plat presented for the approval shall have a permanent minimum width of 66 feet right-of-way (during the road construction period the right-of-way width may exceed 66 feet to provide for the appropriate backslope). Dead end roads require a cul-de-sac which has a minimum 120-foot diameter. Alleys require a minimum width of 20 feet right-of-way.
3. All dedicated roadways have a roadbed of not less than 32 feet and shall have a bituminous surface. All cul-de-sacs, regardless of surface type, shall have a minimum traveled surface diameter of 100 feet.
4. When necessary for drainage, ditches along the roadbed shall not be less than two feet deep.

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CHAPTER 153: ANTI-BLIGHT REGULATIONS

Section

153.01 Sexually-oriented businesses

Cross-reference:

Location of sexually oriented businesses, see § 150.05

§ 153.01 SEXUALLY-ORIENTED BUSINESSES.

See Ch. 115 of this code of ordinances for provisions regarding sexually-oriented businesses.

Anti-Blight Regulations

CHAPTER 154: STORM AND EROSION CONTROL

Section

- 154.01 Purpose
- 154.02 Storm water
- 154.03 Erosion control

§ 154.01 PURPOSE.

(A) The city lies within the boundaries of the Middle Fork Crow River Watershed District (the ADistrict@). The District has adopted administrative rules implementing storm water and erosion control regulations within the District, including within the city. The District's rules provide for the exemption of municipalities that have regulations that are as stringent as, or more stringent than, the District's rules. The purpose of this chapter, together with a rule exemption agreement between the city and District, is to ensure that the city's regulations meet this threshold so that regulatory duplication can be avoided and the city and property under its jurisdiction may be exempted from the District's permitting process.

(B) This chapter supplements the provisions of Ch. 53 of this code of ordinances. Nothing in this chapter modifies the provisions of Ch. 53 of this code of ordinances. To the extent provisions of this chapter conflict with Ch. 53 of this code of ordinances, the more restrictive provision shall apply. All terms in this chapter shall have the meaning defined in the District's administrative rules.
(Ord. 160816-02, passed 8-16-2016)

§ 154.02 STORM WATER.

(A) *Permit required for certain development and redevelopment.* A permit is required for the following:

- (1) Any land disturbing activity one acre or greater, excluding individual lots within a residential development which has an approved storm water plan;
- (2) The development of any new resort or planned unit development;
- (3) The expansion or replacement of a structure at an existing resort; and

Storm and Erosion Control

(4) The redevelopment of a parcel that currently exceeds impervious surface limits imposed by Minn. Rules Ch. 6120 or the city.

(B) *Standards.* A storm water permit application under this section must meet the following standards.

(1) Runoff rates for the proposed development or redevelopment of a property shall not exceed existing runoff rates for the two-year, ten-year, 100-year and 7.2-inch snow melt critical storm events. The runoff rate for the property after development or redevelopment must not exceed the runoff rate for the predominant land use over the last ten years.

(2) All development or redevelopment of property shall treat one-half inch of runoff from all newly created or redeveloped impervious surface on the property such that implemented storm water BMPs water quality treatment consistent with MPCA guidance documents.

(3) If the development or redevelopment drains to a discharge point within one mile of a special or impaired water, as defined by the MPCA NPDES permit, the property shall treat one inch of runoff from all newly created or redeveloped impervious surface on the property such that implemented storm water BMPs infiltrate V_z of the volume if possible in addition to meeting requirements consistent with the MPCA NPDES permit.

(4) A site plan must be submitted with the permit application in accordance with submittal requirements prepared by the Middle Fork Crow River Watershed District. The applicant must submit runoff calculations for two-year, ten-year, 100-year and 7.2-inch snow melt critical storm events. The applicant must also submit calculations demonstrating that water quality standards will be met. (Ord. 160816-02, passed 8-16-2016)

§ 154.03 EROSION CONTROL.

(A) *Permit and plan required for certain land disturbing activity.* A permit is required for any land disturbing activity that is greater than 300 square feet within 300 feet of the ordinary high water mark or a storm water conveyance system (curb and gutter).

(B) *Standards.* An erosion and sediment control plan must be submitted and approved before a permit may be issued. The plan must minimize erosion and sedimentation to the greatest extent practicable. The plan must include the following standards.

(1) The project must be phased to the greatest extent possible to minimize the area of disturbed land at any given time.

(2) Site specific topography and soil conditions must be specifically addressed.

Storm and Erosion Control

(3) BMPs must be utilized in a manner consistent with MPCA guidance documents such as the *Minnesota Storm Water Manual*, as amended.

(4) A site plan must be submitted with the permit application in accordance with submittal requirements prepared by the Middle Fork Crow River Watershed District.
(Ord. 160816-02, passed 8-16-2016)

Storm and Erosion Control

CHAPTER 155: SIGNS

Section

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§ 155.01 PURPOSE.

(A) The purpose of this chapter is to coordinate and regulate the type, placement and physical dimensions of signs within the city's various zoning districts. The City Council considers the standards and regulations in this chapter to be reasonable and necessary to attain the purposes listed herein, and adopts this chapter to ensure:

- (1) Such public and private investment in improving the quality of life is protected;
- (2) The economic vitality of the community is maintained;
- (3) The integrity of residential areas and the dignity of public facilities and open space are preserved;
- (4) The general appearance of the city and an attractive business environment is improved;
- (5) Attractively designed; appropriately placed, soundly constructed and well maintained signs enhance both the public and private investments and increase the property values; and
- (6) Proper regulation of signs encourages the innovative use of design, promotes both renovation and proper maintenance, allows for special circumstances and guarantees equal treatment under the law through accurate record keeping and consistent enforcement.

Signs

(B) This chapter is not intended to regulate official traffic signs and signals, government signs the City Council has no jurisdiction to regulate, the copy or message of signs, produce dispensers, point of purchase displays, scoreboards on athletic fields, flags, religious symbols, gravestones, commemorative plaques, holiday decorations, display of street numbers or any display or construction not defined herein as a sign. This chapter shall not apply to building design unless said design incorporates a sign, as defined in this chapter; in which case, that part of such design which is a sign shall be subject to the provisions of this chapter.

(Ord. passed 12-20-2011)

§ 155.02 DEFINITIONS.

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

ABANDONED SIGN. A sign which no longer identifies or advertises a bona fide business, owner, lessor, lessee, service, product or activity, or for which no legal owner can be found or, if found, disclaims any interest in the sign.

ADVERTISING SIGN. A sign which identifies or call attention to a person, institution, facility, business, owner, service, good, product, program, activity or cause.

ANIMATED SIGN. A sign depicting motion by virtue of moving, flashing, revolving, flickering lights or change of color in lights or lighting effects or by mechanical means which tend to depict motion.

AWNING. A shelter of canvas or other material, projecting from and supported by the exterior wall of a building, constructed on a supporting framework.

AWNING SIGN. A sign painted on, printed on, constructed as an integral part of, or attached flat against the surface of, an awning.

BANNER. A sign made of fabric, vinyl or any non-rigid material with no enclosing framework.

BILLBOARD. An outdoor advertising structure designed to carry changeable, temporary posters, copy or painted or designed messages, symbols or pictures, and the sign area of which exceeds 128 square feet, including, but not limited to off-premises structures, but excluding roof signs.

BUILDING FRONTAGE. The part of the length or width projected from and equal to the length or width of the building fronting on one or more streets.

Signs

BUSINESS SIGN. A sign used in connection with a business or association, including, but not limited to, the following signs: advertising sign; construction sign; development sign; festoon; identification sign; incidental sign; multiple business sign; name plate; off-premises sign; on-premises sign; real estate sign; point of purchase display; and subdivision identification sign.

CANOPY. An ornamental roof-like structure, which may be attached to a building or another structure, or may stand independently, and which is not a marquee.

CANOPY SIGN. Any sign which is suspended from or which forms part of a canopy and which does not extend horizontally beyond the limits of such.

CHANGEABLE COPY SIGN. A sign upon which message copy can be changed through the use of detachable letters or numerals, panels or electrical or electronic controls, lamps or illuminated tubes.

CITY. The City of Spicer, Minnesota.

CLEARANCE. The shortest vertical distance between the grade of the street, curb or sidewalk immediately beneath a sign and the lowest point of the sign, including framework and embellishments, extending over such grade.

CONFORM. To act in accordance with prevailing standards.

CONSTRUCTION SIGN. A temporary sign identifying an architect, contractor, subcontractor developer, financier, materials supplier or other like information with respect to construction on the property on which the sign is located.

DEVELOPMENT SIGN. A sign identifying a particular subdivision or residential development or area or a particular commercial or industrial complex, located at the entrance or entrances to such development or complex.

DIRECTIONAL SIGN. An on- or off-premises sign giving directions, such as parking, entrance or exit signs, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy.

DOUBLE-FACED SIGN. A sign with two faces.

FACADE. The entire building front including the parapet.

FACE, SIGN. The area of a sign on which the copy is placed.

FESTOON. A string or garland of leaves, flowers, ribbons, tinsel, small flags, pinwheels, ornamental windsocks, lights or other like ornaments.

FLASHING SIGN. A sign which contains an intermittent or sequential light source used primarily to attract attention.

Signs

FREESTANDING SIGN. A sign permanently fixed to the ground by one or more uprights, posts, columns or pylons and not attached to any building.

FRONTAGE. The length of the property premises along a right-of-way on which it borders.

GOVERNMENT SIGN. A sign erected and maintained by the city, county, state or Federal Government.

HAZARDOUS SIGN. Any sign determined by the Zoning Administrator to be structurally unsafe or in disrepair to the point of being unsafe.

HEIGHT. The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

IDENTIFICATION SIGN. A sign the copy of which is limited to the name and address of a building, institution or person, and to the activity or occupation being identified.

ILLUMINATED SIGN. A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

INCIDENTAL SIGN. A small sign, emblem or decal informing the public of goods, facilities or services available on the premises, such as a credit card sign or a sign indicating hours of business.

MAINTENANCE. The cleaning, painting or repair of a sign, or the replacement of defective parts thereof, in a manner that does not alter the basic copy, design or structure of the sign.

MALL. An urban shopping area featuring a variety of shops with associated passage ways or open air concourses for pedestrian traffic.

MANSARD. A lower, almost vertical slope of a mansard roof, including a roof-like facade architecturally comparable to a building wall.

MARQUEE. A permanent, roof-like structure of rigid materials supported by and extending from the facade of a building and projecting over its entrance.

MARQUEE SIGN. A sign attached to or supported by a marquee.

MULTI-BUSINESS SIGN. A sign for buildings or structures where more than one business is located, including building directories and signs for entrance identification.

NAMEPLATE. A non-electric on-premises identification sign limited to the name, address and occupation of an occupancy or group of occupancies.

Signs

NON-CONFORMING. Failure to conform.

OBSOLETE SIGN. A sign which advertises or identifies neither the person involved, nor the business or activity presently carried on the premises, or which identifies a name no longer used by the activity carried on the premises.

OCCUPANCY. The state of being in legal possession of a building or portion of premises or portion of a building or a premises or portion of a premises, either as owner, lessee or tenant, or other claim of right, and for a given use.

OFF-PREMISES SIGN. A sign, other than a billboard as herein defined, advertising an establishment, merchandise, service or entertainment which is not sold, produced manufactured or furnished on the property on which the sign is located.

ON-PREMISES SIGN. A sign which advertises or identifies the use, the business transacted, the services rendered, the goods sold or produced, the name of the business, or the name of the person, or a combination of such categories, on the premises on which the sign is located.

OTHER STREET FRONTAGE. Business frontage on a street or streets other than the principal street frontage.

OWNER. A person in who is vested the dominion, title or proprietary right in property affected by this chapter. For purposes of this chapter, the **OWNER** of real estate on which a sign is located is presumed to be the owner of the sign unless the contrary appears on the application for a permit under this chapter or by any other writing filed with the Zoning Administrator.

PARAPET. The extension of a false front or wall above the roof line.

PERSONS. An individual, corporation, firm, partnership or similar association.

POINT OF PURCHASE DISPLAY. Advertising of a retail item accompanying its display, such as an advertisement on a dispenser.

POLITICAL SIGN. A temporary sign used in connection with a local, state or national election or referendum.

PREMISES. A parcel of land with its appurtenances and buildings composing a unit as to a site to which a sign or signs are directed.

PRINCIPAL STREET FRONTAGE. The frontage on the street which the principal entrance on the premises faces or, in instances permitted by this chapter, that street which the owner elects to have considered as the principal street frontage.

Signs

PROJECTED SIGN. A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

PROPERTY LINE. The boundary line between premises owned by different persons, or between the outer limits of the easement of a street, thoroughfare or road, either dedicated or obtained by a public authority by purchase or condemnation, and the property abutting such street, thoroughfare or road.

REAL ESTATE SIGN. A temporary sign advertising the premises upon which the sign is located as being for rent, lease or sale.

RIGHT-OF-WAY LINE. The outer limits of the dedicated area of a street, road or thoroughfare or in the case of an easement or title obtained through purchase or condemnation by public authority the outer limits of such acquired area.

ROOF LINE. The top edge of the roof of a building, or the parapet, whichever is higher, excluding any cupola, pylon, chimney or minor projection.

ROOF SIGN. A sign erected on the roof or projecting above the roof line of a building, but does not include a sign erected on a mansard.

ROTATING SIGN. A sign in which the sign itself or any portion thereof moves in a revolving or similar manner, but does not include methods of changing a copy.

SANITARIUM. A specialized place dealing with public health.

SETBACK. The distance between a property line or right-of-way line, measured perpendicular to such line and the part of a sign which is closest to such property line or right-of-way line.

SHOPPING CENTER. A group of retail stores and services establishments with ample parking facilities.

SIGN. Any device, structure, fixture or placard using graphics, symbols, pictures, illustrations or written or printed copy, or any combination of them designed specifically for the purpose of advertising or identifying any person, institution, facility, product, goods or services or any combination of them.

SIGN AREA. The physical dimensions of a sign face.

(1) *Projecting and freestanding signs.* In calculating the area of a single freestanding or projecting sign, only the largest face of any double-faced sign shall be counted.

(2) *Multiple use freestanding signs.* The sign area shall be determined by calculating the area enclosed by the perimeter of each sign and totaling such areas. Total sign area does not include protective devices, pole covers, structure covers, framing or embellishments as long as such devices or embellishments do not contain advertising or identification.

Signs

(3) *Single box signs, wall cabinet signs or signs on boards or other material.* The sign area shall be the area enclosed by the perimeter of the box, cabinet or board or board structure, or similar structure to which the sign is attached or on which is painted. In cases where there is additional background such as plain boards, painted boards, art work, figures, designs or logos, the additional background is to be included in the total area of the sign face.

(4) *Wall signs composed of letters and the like.* The sign area of wall signs composed of individual letters or numbers or combinations of both, using the wall as background with no added decoration shall be determined by measuring the perimeter or perimeters of each line of letters or numbers or combinations thereof within parallel lines enclosing all letters and numbers in the line. Where more than one line is used, the sign areas for all the lines shall be totaled to determine the total sign area of the sign.

SINGLE FACE SIGN. A sign with copy on one face only and which may be seen from one direction only.

SUBDIVISION IDENTIFICATION SIGN. A development sign identifying a recognized, subdivision, condominium complex, residential development or commercial or industrial complex.

TEMPORARY SIGN/PORTABLE SIGN/SANDWICH BOARD SIGNS. A sign or portable box sign that is not permanently affixed to the ground, a sign that is not permanently affixed to any other permanent structure that is in turn affixed to the ground, or a sign that is capable of being moved by mechanical or non-mechanical means, including **SANDWICH BOARD SIGNS**.

UNDER-CANOPY SIGN. A sign suspended from or otherwise hung or attached under a canopy and not extending horizontally beyond the canopy structure or above the canopy.

USE. The application or employment of a premise, a facility, a building, a sign or any other property for a particular purpose.

WALL SIGN. A sign attached parallel with and extending not more than 12 inches from the wall or mansard, of a building including painted, individual letter and cabinet signs.

WINDOW SIGN. A sign installed inside a window and intended to be viewed from the outside.

ZONING ADMINISTRATOR. The Zoning Administrator of the City of Spicer, Minnesota.
(Ord. passed 12-20-2011)

§ 155.03 GENERAL REGULATIONS.

(A) *Signs not requiring permits.* No permit shall be required for the following types of signs; provided that, such signs shall be subject to all other applicable provisions of this chapter:

Signs

- (1) Signs advertising garage, rummage or household auction sales and placed on the premises where the sale is held;
- (2) Temporary signs not in place more than seven consecutive days and no more than four occasions in any 12-month period;
- (3) Real estate signs;
- (4) Construction signs of 32 square feet or less;
- (5) On-premises directional signs of four square feet or less;
- (6) Nameplates of two square feet or less;
- (7) Political signs;
- (8) Public signs or notices placed by any agency or government;
- (9) Emergency signs or signs warning of hazards, whether placed by public or private persons or agencies;
- (10) Window signs;
- (11) Incidental signs; and
- (12) Banners, festoons and pennants in place for seven consecutive days or less, and no more than four occasions per year in any 12-month period.

(B) *Prohibited signs.* The following signs are prohibited:

- (1) Abandoned signs;
- (2) Flashing signs;
- (3) Hazardous signs;
- (4) Billboards as a roof sign;
- (5) Sign imitating or resembling traffic signs or signals or government signs;
- (6) Signs attached to trees, telephone or utility poles, public benches, streetlights or placed on any public property or street or highway right-of-way by any person other than the one having authority from a government to place such a sign; and

Signs

(7) Signs which obstruct access to fire escapes, fire hydrants, exits, doors, standpipes or ventilating systems, or which interfere with the view of traffic signals or signs.

(C) *Sign permit required for all other signs.* All signs not exempted under division (A) above, prohibited under division (B) above or in existence prior to this chapter require a sign permit. (Ord. passed 12-20-2011)

§ 155.04 TEMPORARY, PORTABLE, BANNERS AND SANDWICH BOARD SIGN STANDARDS.

(A) Temporary, portable and sandwich board signs shall be set back a minimum of six feet from the public right-of-way.

(B) Temporary, portable, banners and sandwich board signs shall have a cumulative sign face no greater than 32 square feet per property. All faces of the sign capable of containing copy shall be considered in this limit, regardless of whether the face actually contains copy.

(C) Banners can be attached to owners buildings or attached to two posts (freestanding), but must be on owners property and not on R.O.W.

(D) Temporary, portable, banners and sandwich board signs are prohibited from having a predominantly black or dark colored background with fluorescent copy. (Ord. passed 12-20-2011)

§ 155.05 ZONING DISTRICT SIGN STANDARDS.

Certain standards apply to signs in the city's various zoning districts as follows: these zoning district specific standards are in addition to all other applicable provisions of this chapter.

(A) *R-1, R-2, R-3 Residential Districts.* In all classes of residence districts, no sign, business sign, nameplate sign or advertising sign shall be erected, except for the following:

(1) A nameplate sign identifying the owner or occupant of a building or dwelling unit; provided that, the surface area does not exceed two square feet. This sign may be placed in any front yard, but in no case may it be placed in any side yard. Such sign may be illuminated;

(2) A sign pertaining to the lease or sale of a building or property; provided that, such sign shall not exceed 12 square feet in surface area and shall not be illuminated;

(3) Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:

Signs

(a) One sign not to exceed 96 square feet in surface area, no more than 15 feet high in height;

(b) One sign not to exceed 12 square feet in surface area, no more than 15 feet in height; and

(c) Directional signs not to exceed two square feet in surface area; provided that, each subdivision shall be limited to one such sign per major thoroughfare approach to the subdivision or development. No such sign shall be allowed on minor residential streets.

(4) Temporary non-illuminated signs identifying an engineer, architect, contractor or product engaged in or used in the construction of a building; provided that, such signs shall not exceed 32 square feet each in surface areas and are no more than 15 feet in height; and, provided that, such signs are removed prior to occupancy of building;

(5) One identification sign, not to exceed 30 square feet in area, for the following uses: church; school; university or college; sanitarium; club; library; or similar uses. Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services. It may be illuminated, but not flashing;

(6) Directional signs not to exceed four square feet in surface area for the following uses: church; school, university or college; hospital; sanitarium; club; library or similar use; provided that, each shall be limited to one such sign per major thoroughfare approach. No such sign shall be allowed on minor residential streets;

(7) One nameplate sign for a dwelling group of five or more units not exceeding 24 square feet in surface area. Such signs may indicate the names and addresses of the building or it may be a directory for occupants;

(8) Professional nameplate sign. One identification sign not to exceed 12 square feet may be illuminated;

(9) Directional signs in any area necessary for the orderly movement of traffic; provided that, such signs shall not be used as advertising space and shall not be illuminated;

(10) With the exception of divisions (A)(3) and (A)(4) above, the maximum height of all freestanding signs shall be six feet and all signs shall have a minimum setback of eight feet from any property line; and

(11) Signs not specifically addressed under this chapter may be allowed as part of a land use permit (conditional use permit, planned unit development and the like).

(B) *CR District*. Business signs and nameplate signs are permitted in CR District subject to the following conditions:

Signs

(1) One identification sign, not to exceed 30 feet in area, for private educational institutions, community centers, rest homes, nursing homes, medical and dental offices. It may be illuminated, but non-flashing and must utilize indirect lights;

(2) One freestanding premises and no sign shall be located closer to the curb than eight feet. Such signs shall not exceed a height of 12 feet where the sign faces a residential district;

(3) The maximum sign areas for freestanding sign shall be 0.08 square feet for each linear foot of principle street frontage up to a maximum of 64 aggregate square feet;

(4) The maximum height of freestanding signs shall be 12 feet;

(5) In addition to a freestanding sign, a premises may have an additional identification sign up to a maximum of 64 square feet, not to exceed the potential total square footage of the freestanding sign located on the property;

(6) All wall sign permits shall require review by the Planning Commission. Building must be designated as a commercial building; no residential homes will be allowed to have a wall sign permit. Up to 8% of any wall area, computed by taking its width or length of the building times its height or 16 feet, whichever is less shall be devoted to wall signs;

(7) Premises shall be permitted, in lieu of a wall sign as herein permitted, to have one projecting sign; provided that, such sign shall not exceed 20 square feet in sign area, shall not project more than four feet from the building to which it is attached when located in the CR District;

(8) Each occupancy having a canopy shall be permitted to maintain one under-canopy sign, not to exceed four square feet in sign area and to have a minimum clearance of seven and one-half feet;

(9) Each occupancy having a canopy shall be permitted to maintain, in addition to the under the canopy sign herein permitted, one canopy sign for each of the front, back and sides of the canopy, the sign area of each sign not to exceed one-half square foot of sign area for each linear foot of front, back and sides, and to be limited by the linear feet on the respective front, back or sides on which the sign is placed;

(10) Each occupancy having an awning shall be permitted to maintain one awning sign, not to exceed one square foot in sign area per one linear foot of awning;

(11) Each occupancy having a marquee, or the building owner if the marquee is located so that it is shared by two or more occupancies, shall be permitted to maintain a marquee sign on the front and each side of the marquee, the sign area in each case is limited to one-half square foot of sign area for each linear foot of marquee or marquee extension of each respective side;

(12) Each occupancy shall be permitted to maintain a maximum of two incidental signs, not to exceed two square feet in aggregate sign area;

Signs

(13) All freestanding, projecting, awning, canopy and marquee signs shall have a minimum setback of two feet from any vehicle use area, a minimum clearance of 15 feet over any vehicle use area, and a minimum clearance of seven and one-half feet over any pedestrian use area. When facing a residential area, the maximum height shall be ten feet; and

(14) No billboards allowed in CRm, except as allowed by a land use permit.

(C) *B1 Highway Business District*. Business signs and nameplate signs are permitted in B1 District subject to the following regulations:

(1) One identification sign, not to exceed 30 square feet in area, for private educational institutions, community centers, rest homes, nursing homes and medical and dental offices. It may be illuminated, but non-flashing;

(2) There shall be permitted one freestanding sign on each premises; provided that, where a premises has in excess of 150 linear feet of principal street frontage, one additional freestanding for each additional 100 linear feet, or major fraction thereof, shall be permitted. The sign area herein below provided for freestanding signs shall be the aggregate sign area for the freestanding signs on the premises and in the event more than one freestanding sign is erected on the premises, the sign area shall be allocated to the signs as determined by the owner. If more than one freestanding sign is located on the premises, they shall be placed at least 75 feet apart and no sign shall be located closer to any property line than eight feet. Such signs shall not exceed a height of ten feet where the sign faces a residential district;

(3) The principal frontage street shall be, in the case of premises bounded by more than one street, that street which the owner elects to have considered as the principal frontage street; provided that, the freestanding sign or signs must be erected with reference to such street and in conformity with the setback requirements herein provided with respect to the other street or streets;

(4) The maximum sign area for freestanding signs shall not exceed 0.8 square foot for each linear foot of principal street frontage up to a maximum 100 square feet with a minimum setback of eight feet;

(5) The maximum height of freestanding signs shall be two feet above the building height to a maximum of 20 feet high;

(6) Up to 8% of any wall area, computed by taking the width or length of the building times its height, or 16 feet, whichever is less, may be devoted to wall signs; provided that, each wall shall be entitled to a maximum area of 60 square feet, regardless of wall size;

(7) Allocation of sign area for wall signs on multiple occupancy buildings shall be controlled by the building owner, who shall be directly responsible for obtaining the necessary permits for all signs, or for seeing that they are obtained and for compliance with this chapter;

Signs

(8) Each premises shall be permitted, in lieu of a wall sign as herein permitted, to have one projecting sign; provided that, such sign shall not exceed 20 square feet in sign area, and shall not project more than four feet from the building to which it is attached when located in the business district;

(9) Each occupant having a canopy shall be permitted to maintain one under-canopy sign, not to exceed four square feet in sign area and to have a minimum clearance of seven and one-half feet;

(10) Each occupancy having a canopy shall be permitted to maintain, in addition to the under the canopy sign herein permitted, one canopy sign for each of the front, back and sides of the canopy, the sign area of each sign not to exceed one-half square foot of sign area for each linear foot of front, back and sides, and to be limited by the linear feet on the respective front, back or sides on which the sign is placed;

(11) Each occupant having an awning shall be permitted to maintain one awning sign, not to exceed one square foot in sign area per one linear foot of awning;

(12) Each occupancy having a marquee, or the building owner if the marquee is located so that it is shared by two or more occupancies, shall be permitted to maintain a marquee sign on the front and each side of the marquee, the sign area in each case limited to one-half square foot of sign area for each linear foot of marquee or marquee extension on each respective side;

(13) Each occupant shall be permitted to maintain a maximum of two incidental signs, not to exceed two square feet in aggregated sign area;

(14) All freestanding, projecting, awning, canopy and marquee signs shall have a minimum setback of two feet from any vehicle use area, a minimum clearance of 15 feet over any vehicle use area, and a minimum clearance of seven and one-half feet over any pedestrian use area;

(15) No billboards, shopping center or mall signs allowed in B1, except as allowed by a land use permit; and

(16) All shopping center or mall signs not provided for under this section require a variance.

(D) *B2 District.* All signs permitted and regulated in Zones R1, R2, R3, CR and B1 are permitted in the B2 Zones. No billboards allowed in B2 District, except as allowed by a land use permit. The height of any freestanding sign shall be no more than two feet above any building height to a maximum of 35 feet high.

(E) *M1 District.* Business signs and nameplate signs are permitted within M1 Light Industrial Districts, subject to the following.

Signs

(1) The total surface area of all business signs shall not exceed the sum of two square feet per linear foot of frontage. No single business sign surface shall exceed 200 square feet in area, nor shall two or more smaller signs be arranged and integrated as to create a surface area in excess of 200 square feet. In the case of corner lots, the least width of a corner lot shall be the front, for purposes of this chapter.

(2) Each M1 Light Industrial District shall be permitted one pylon sign not over 80 square feet in surface area. No part of such sign shall be closer than 30 feet from a street right-of-way. It shall be non-illuminated.

(3) No billboards are allowed in M1 District, except as allowed by a land use permit.

(4) No signs shall project above the permitted building height in the M1 Light Industrial Districts.

(F) *AG District.* All permitted uses, except that in areas within 250 feet of adjacent districts, all uses permitted for the least restrictive adjacent district within 250 feet of the sign.

(G) *PI District.* By approval of the Planning Commission.
(Ord. passed 12-20-2011)

§ 155.06 CONSTRUCTION AND MAINTENANCE STANDARDS.

(A) *Maintenance.* All signs shall be maintained so that exposed surfaces are clean and painted if painting is required, defective parts are replaced and broken or non-functioning parts are repaired or removed.

(B) *Lighting.* Unless otherwise provided by this chapter, all signs may be illuminated; provided that, no sign may utilize:

(1) An exposed incandescent lamp with an external reflector without a sunscreen or comparable diffusion;

(2) Any lamp throwing light on the sign, in which the direct light from the lamp is visible from any public street or public sidewalk; and

(3) Any revolving beacon light.

(C) *Changeable copy.* Unless otherwise provided by this chapter, any sign permitted by this chapter may use changeable copy, changed either manually or electronically.

(D) *Compliance with codes.* All signs subject to the Building Code or the Electrical Code adopted by the City Council, now or hereafter in effect, shall comply with all provisions of said codes.

Signs

(E) *Construction.* The standards of construction of all signs shall be those as to which code provisions are in effect specifically, or if there are no such specific provisions, the nearest reasonable regulations pertaining to items such as type of material used, anchoring, wind loading and other safety factors as are in effect in the city. Any violation of any such code provision shall be deemed a violation of the provisions of this chapter.

(F) *Anchoring.*

(1) No sign shall be suspended by non-rigid attachments that will allow the sign to swing in a wind.

(2) All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

(3) All portable signs on display shall be braced or secured to prevent motion.
(Ord. passed 12-20-2011)

§ 155.07 ILLEGAL SIGNS.

The following signs are deemed illegal signs:

(A) Any sign placed or maintained in the city from and after the effective date of this chapter without a permit as required by this chapter;

(B) Any sign as to which limitations on the period of maintaining said sign, either as set forth in this chapter or in the permit issued therefor, has expired;

(C) Any sign prohibited by § 155.03(C) of this chapter;

(D) Any sign which does not comply with the provisions of §§ 155.04, 155.05 or 155.06 of this chapter; and

(E) Any sign which is constructed or maintained in violation of any code or codes applicable to it or which violates any applicable law.
(Ord. passed 12-20-2011)

§ 155.08 GENERAL ADMINISTRATION.

This chapter shall be administered by the Zoning Administrator, with all the powers and subject to the provisions set forth with respect to said office in this chapter.
(Ord. passed 12-20-2011)

Signs

§ 155.09 ENFORCEMENT.

The placement or maintenance of an illegal sign shall constitute a violation of this chapter and may be subject to the penalties therein described.

(A) It shall be the duty of the owner of any sign, the owner of any property, upon which a sign is placed, constructed, maintained or altered, and any contractor, subcontractor or other person responsible for the placement, construction, maintenance or alteration of any sign, to take such steps as may be necessary to comply with the provisions of this chapter. Any such person who causes or allows an illegal or other sign to be placed, constructed, maintained or altered in violation of the provisions of this chapter, or who fails, neglects or refuses, to comply with any notice given or obstructs the city or any of its employees or contractors hired for the purpose of carrying out the provisions of this chapter, shall be guilty of a misdemeanor and be subject to a fine of not more than \$500, or be imprisoned for a period of not more than 90 days or both.

(B) The city shall have the power to remove any sign and to charge and collect the costs of such removal for the inspection, and other charges for the city’s time. This is in addition to all other remedies available to the city, including the power to assess such costs against the real property on which the sign is placed.

(C) Any person whose sign is in violation of this chapter shall not be entitled to a sign permit for any other sign until the sign in violation has either been removed and all charges therefore incurred by the city paid or made to conform to the provisions of this chapter.
(Ord. passed 12-20-2011)

§ 155.10 NON-CONFORMING SIGNS.

(A) Signs existing on the effective date of this chapter which do not conform to the regulations set forth in this chapter shall become a non-conforming use.

(B) All hanging grandfathered non-conforming signs shall be required to meet the minimum height requirements of seven and one-half feet for pedestrian areas and 15 feet for vehicular areas with a minimum setback of two feet from all vehicular traffic areas. Alteration of these non-conforming signs to meet these requirements will not jeopardize their grandfather status in this chapter.
(Ord. passed 12-20-2011)

§ 155.11 TABLE FOR COMPLIANCE.

<i>Signs</i>	<i>C-R District</i>	<i>B-1 District</i>	<i>B-2 District</i>	<i>M-1 District</i>
Awning sign	Maximum 1 sq. ft. per linear ft. of awning N/A	Maximum 1 sq. ft. per linear ft. of awning N/A	Maximum 1 sq. ft. per linear ft. of awning N/A	N/A

Signs

<i>Signs</i>	<i>C-R District</i>	<i>B-1 District</i>	<i>B-2 District</i>	<i>M-1 District</i>
Billboard sign	Land use permit only	Land use permit only	Land use permit only	Land use permit only
Canopy sign	Maximum of 4 sq. ft., minimum clearance of 7.5 sq. ft. from ground	Maximum of 4 sq. ft., minimum clearance of 7.5 sq. ft. from ground	Maximum of 4 sq. ft., minimum clearance of 7.5 sq. ft. from ground	N/A
Freestanding sign	0.8 sq. ft. per linear ft. of principal street frontage max of 64 sq. ft.	0.8 sq. ft. per linear ft. of principal street frontage, maximum of 100 sq. ft.	0.8 sq. ft. per linear ft. of principal street frontage, maximum of 100 sq. ft.	N/A
Identification sign	30 sq. ft. institutional, nursing homes	30 sq. ft. institutional, nursing homes	30 sq. ft. institutional, nursing homes	N/A
Incidental sign	2 signs maximum, 2 sq. ft.	2 signs maximum, 2 sq. ft.	2 signs maximum, 2 sq. ft.	N/A
Marquee sign	See § 155.04	See § 155.04	See § 155.04	N/A
Maximum height of sign	12 ft.	Maximum of 20 sq. ft. above the building	Maximum of 35 sq. ft. above the building	Building height only
Projecting sign	Maximum of 20 sq. ft., 4 ft. away from building	Maximum of 20 sq. ft., 4 ft. away from building	Maximum of 20 sq. ft., 4 ft. away from building	N/A
Pylon sign	N/A	N/A	N/A	Maximum of 80 sq. ft.
R.O.W. (right-of-way)	8 ft.	8 ft.	8 ft.	30 ft.
Wall sign	8% of wall area	8% of wall area	8% of wall area	N/A

(Ord. passed 12-20-2011)

Signs

CHAPTER 156: SHORELAND MANAGEMENT

Section

156.01 Shoreland management regulations adopted by reference

§ 156.01 SHORELAND MANAGEMENT REGULATIONS ADOPTED BY REFERENCE.

The city's shoreland management regulations, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.

(Ord. passed 1- -2009)

PARALLEL REFERENCES

References to Minnesota Statutes
References to Prior Code
References to Ordinances

REFERENCES TO MINNESOTA STATUTES

<i>M.S. Section</i>	<i>Code Section</i>
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20190702-01	7-2-2019	Granting franchise to Mid-State Telephone Company, d/b/a TDS Telecom to construct, erect, own, operate and maintain a cable system in the city
2019702-02	7-2-2019	Granting franchise to Spectrum Mid-America, LLC l/k/a Charter Communications to construct, erect, own, operate and maintain a cable system in the city

