City Code

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Title I: General Provisions

Chapter 10:
General Provisions

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10.01 Title of Code

10.01.A

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

10.01.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 SEC. followed by the number, such as SEC. 10.01.

10.02 Rules of Interpretation

10.02.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.

10.02.B Specific Rules of Interpretation

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

10.02.B.1 AND or OR

Either conjunction shall include the other as if written and/or, whenever the context requires.

10.02.B.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.

10.02.B.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.

10.02.B.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 of Future Ordinances

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

10.04 Captions

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

10.05 Definitions

10.05.A General Rule

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

10.05.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 area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term **CITY** when used in this code may also be used to refer to the City Council and its authorized representatives.

CITY ADMINISTRATOR or ADMINISTRATOR The person duly appointed by the City Council as City Administrator and acting in that capacity as the Chief Administrative Officer (see Section 5.01 of the City Charter).

CITY CLERK-TREASURER The person duly appointed by the City Council and acting in that capacity.

CITY COUNCIL or COUNCIL The City Council of the City of Crookston, Minnesota.

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

CONVICTION Either of the following accepted and recorded by the court:

a) A plea of guilty; or

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

COUNTY The county or counties in which the city is located.

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

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

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

MAY The act referred to is permissive.

MISDEMEANOR The crime for which a sentence of not more than 90 days or a fine of not more than $1,000, or both, may be imposed.

MONTH A calendar month.

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

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

ORDINANCE An ordinance duly adopted by the City Council.

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

PETTY MISDEMEANOR An offense which does not constitute a crime, and for which a sentence of a fine of not more than $300 may be imposed.

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

PRECEDING or FOLLOWING Next before or next after, respectively.

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

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

PUBLIC PROPERTY or PUBLIC PLACE Any place, property or premises dedicated to public use, owned by or controlled by the city, including, but not limited to, streets, parks, or parking lots so owned or occupied.

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

SHALL The act referred to is mandatory.

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

STATE The State of Minnesota.

STREET The entire area dedicated to public use, or contained in an easement or other conveyance or grant to the city, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

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

VIOLATE This term includes failure to comply with.

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

YEAR A calendar year, unless otherwise expressed.

10.06 Severability

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

10.07 Reference to Other Sections

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

10.08 Reference to Offices

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

10.09 Errors and Omissions

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

10.10 Official Time

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

10.11 Reasonable Time

10.11.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.

10.11.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.

10.15 Repeal or Modification of Ordinance

10.15.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.

10.15.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.

10.15.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

10.16.A

If the City Council shall desire to amend any existing chapter, subchapter, section, subsection or item of this Code, the chapter, subchapter, section, subsection or item shall be specifically repealed and a

new chapter, subchapter, section, subsection or item, containing the desired amendment, substituted in its place.

10.16.B

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

10.17 Preservation of Penalties, Offenses, Rights and Liabilities

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

10.18 Copies of Code

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

10.19 Adoption of Statutes and Rules by Reference

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

10.20 Assignment of Duties

Whenever a specific duty is assigned to a particular officer or employee of the city, the designation or assignment shall also include the deputy, assistant or designee of the official or employee.

10.99 General Penalty

10.99.A

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

10.99.B

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

10.99.C

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

10.99.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.

Chapter 11:
City Standards

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11.01 Ward Boundaries

11.01.A First Ward

All that part of the City bounded as follows: Commencing at the intersection of the east right-of-way line of U.S.T.H. #75 and the south line of Section 1, Township 149 North, Range 47 West, north along the east right-of-way line of U.S.T.H. 75 to its intersection with the north right-of-way line of County Highway 233, known as Marin Avenue; thence east along the north right-of-way line of County Highway 233 to its intersection with the west right-of-way line of Old Trunk Highway 75; thence easterly along the west right-of-way line of Old Trunk Highway 75 to its intersection with the west line of the Southeast Quarter of the Northwest Quarter of Section 36, Township 150 N, Range 47 W; thence north along the west lines of the Southeast and Northeast Quarters of the Northwest Quarter of Section 36, Township 150 North, Range 47 West to its intersection with the centerline of the Red Lake River; thence easterly and upstream along the centerline of the Red Lake River to its intersection with the west line of the Southwest Quarter of the Southeast Quarter of Section 25, Township 150 North, Range 47 West; thence north along west line of the Southwest Quarter and Northwest Quarter of the South East Quarter of said Section 25 to the northwest corner of the Southeast Quarter of Said Section 25; thence east along the north line of the Southeast Quarter of Section 25, Township 150 North, Range 47 West to its intersection with the centerline of U.S.T.H. #2; thence south and east along said highway centerline to its intersection with the centerline of Burlington Northern Santa Fe Railroad (BNSF); thence southwesterly along the centerline of the BNSF Railroad to its intersection with the south line of the Northwest Quarter of Section 1, Township 149 N, Range 47 West; thence west along the south line of the Northwest Quarter of Section 1, Township 149 N, Range 47 W to its intersection with the east line of the Northwest Quarter of the Southwest Quarter of said Section 1; thence south along the east line of the Northwest and Southwest Quarters of the Southwest Quarter of said Section 1 to the southeast corner of the Southwest Quarter of the Southwest Quarter of said Section 1; thence west along the south line of the Southwest Quarter of the Southwest Quarter of Section 1, Township 149 N, Range 47 W to the east right-of-way line of U.S.T.H. #75, being the point of commencement, shall constitute the First Ward.

11.01.B Second Ward

All that part of the City bounded as follows: Commencing at the point of intersection of the centerline of Broadway Street North and Sixth Street West, west along the centerline of Sixth Street West to its intersection with the east line of the Northeast Quarter of the Southeast Quarter of Section 25, Township 150 North, Range 47 West; thence north along said east line to the northeast corner of the Northeast Quarter of the Southeast Quarter of said Section 25; thence west along the north line of the Northeast and Northwest quarters of the Northeast Quarter of said Section 25 to the City Limit line; thence west, south, west, north, west, north, east, north and east to a point on the west line of Section 19, Township 150 North, Range 46 West, said point being 1233 feet north of the southwest corner of said Section 19; thence south along said west line to the southwest corner of said Section 19; thence east along the south line of said Section 19 to its intersection with the centerline of the Burlington Northern Santa Fe Railroad (BNSF); thence south along said BNSF centerline its intersection the centerline of Fourth Avenue North; thence east along the centerline of Fourth Avenue North to its intersection with the centerline of Broadway Street North; thence south along the centerline of Broadway Street North to its intersection with the centerline of Sixth Street West, being the point of beginning, shall constitute the Second Ward.

11.01.C Third Ward

All that part of the City bounded as follows: Commencing at the point of intersection of the centerline of Barrette Street and the south line of Section 20, Township 150 North, Range 46 West, north along the west line of said Section 20 to the northwest corner of the Southwest Quarter of said Section 20;

thence east long the north line of said Southwest Quarter of Section 20 to the northeast corner; thence south along east line of said Southwest Quarter of Section 20 to the southeast corner of said Southwest Quarter of Section 20; thence east along the north line of the Section 29, Township 150 North, Range 46 West to the northeast corner of Northwest Quarter of the Northeast Quarter of said Section 29; thence south along the east line of the Northwest Quarter of the Northeast Quarter of said Section 29 to the southeast corner; thence west along the south line of the Northwest Quarter of the Northeast Quarter of said Section 29 to the southwest corner; thence south along the east line of the Southeast Quarter of the Northwest Quarter of Section 29 to the southeast corner of the Southwest Quarter of the South Quarter of Section 29; thence west along the south line of said Section 29 to its intersection with the centerline of Barrette Street; thence south along the centerline of Barrette Street to its intersection with the centerline of the Red Lake River; thence westerly and northerly, downstream, along the centerline of the Red Lake River to its intersection with the centerline of Alexander Street; thence north along the centerline of Alexander Street to its intersection with the centerline of Central Avenue North; thence west and northerly along the centerline of Central Avenue North and Seventh Street to its intersection with the centerline of Ash Street North; thence north along the centerline of Ash Street North to its intersection with the centerline of Eighth Street; thence west along the centerline of Eighth Street to its intersection with the centerline of Broadway Street North; thence north along the centerline of Broadway Street North to its intersection with the centerline of Fourth Avenue North; thence east along the centerline of Fourth Avenue North to its intersection with the centerline of Alexander Street; thence south along the centerline of Alexander Street to its intersection with the centerline of Fourth Avenue Northeast; thence east along the centerline of Fourth Avenue Northeast to its intersection with the centerline of Barrette Street; thence northerly along the centerline of Barrette Street to its intersection with south line of Section 20, Township 150 North, Range 46 West, being the point of commencement, shall constitute the Third Ward.

11.01.D Fourth Ward

All that part of the City bounded as follows: Commencing at the point of intersection of the centerline of the Red Lake River and the centerline of the Burlington Northern Santa Fe Railroad (BNSF); thence north along the centerline of the BNSF Railroad to its intersection with the centerline of West Sixth Street; thence easterly along the centerline of Sixth Street to its intersection with the centerline of Broadway Street North; thence north along the centerline of Broadway Street North to its intersection with the centerline of Eighth Street; thence east along the centerline of Eighth Street to its intersection with the centerline of Ash Street North; thence south along the centerline of Ash Street North to its intersection with the centerline of Seventh Street; thence southeasterly and east along Seventh Street and Central Avenue North to its intersection with the centerline of Alexander Street; thence south along the centerline of Alexander Street to its intersection with the centerline of the Red Lake River; thence westerly and downstream along the centerline of the Red Lake River to its intersection with the centerline of the BNSF Railroad, being the point of commencement, shall constitute the Fourth Ward.

11.01.E Fifth Ward

All that part of the City bounded as follows: Commencing at the point of intersection of the centerline of the Red Lake River and the centerline of the Burlington Northern Santa Fe Railroad (BNSF); thence easterly and upstream along the centerline of the Red Lake River to its intersection with the centerline of Barrette Street; thence southerly along the centerline of Barrette Street approximately 2850 feet to a point on the southwesterly right-of-way line of the BNSF Railroad; thence northwesterly along said Railroad right-of-way line approximately 800 feet to a point 150 feet south of the centerline of Fairfax Avenue; thence westerly and parallel with the south line of Fairfax Avenue a distance of 1400 feet, more or less, to a point on the east line of the westerly one-half of Government Lot 2, Section 6, Township149 N, Range 46 W; thence southerly along said line in Government Lot 2, to a point,

said point being 49.5 feet north of the south line of Government Lot 2; thence west along said line being 49.5 feet north of the south line of Government Lot 2 to the centerline of Washington Avenue; thence north along the centerline of Washington Avenue to a point, said point being 308.7 feet south of the southerly boundary of Fairfax Avenue; thence westerly along the City Limits Line, and parallel and 308.7 feet distance from the southerly boundary of said Fairfax Avenue to the easterly boundary of Miles Avenue; thence southerly along the easterly boundary of Miles Avenue to the south line of Schley Street; thence westerly along the south line of Schley Street to the east line of McKinley Boulevard; thence southerly along the east line of McKinley Boulevard as platted in McKinley Park Addition to the centerline of Clark Street, being the City Limits; thence westerly along said line and its extension westerly to its intersection with the centerline of the BNSF Railroad; thence northerly along the centerline of the BNSF Railroad to its intersection with the centerline of the Red Lake River, being the point of commencement, shall constitute the Fifth Ward.

11.01.F Sixth Ward

All that part of the City bounded as follows: Commencing at the intersection of the south line of Section 19, Township 150 North, Range 46 West and the west right-of-way line of the Burlington Northern Santa Fe Railroad (BNSF), also the City Limit line, northwesterly, north, west, south, west to the northwest corner of Section 19, Township 150 North, Range 46 West; thence south along the west line of said Section 19 to the southwest corner; thence east along the south line of Section 19, Township 150 North, Range 46 West to its intersection with the centerline of the BNSF Railroad; thence southwesterly along the centerline of the BNSF Railroad to its intersection with the centerline of Fourth Avenue North; thence east along the centerline of Fourth Avenue North to its intersection with the centerline of Alexander Street; thence south along the centerline of Alexander Street to its intersection with the centerline of Fourth Avenue Northeast; thence east along the centerline of Fourth Avenue Northeast to its intersection with the centerline of Barrette Street; thence northerly along the centerline of Barrette Street to its intersection south line of Section 19, Township 150 North, Range 46 West; thence west along the south line of said Section 19 to its intersection with the west right-of-way line of the BNSF Railroad, being the point of commencement, shall constitute the Sixth Ward.

Title III: Administration

Chapter 30: City Council

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30.01 Authority and Purpose

Pursuant to authority granted by Charter, this chapter of the city code is enacted to set down for enforcement the government and good order of the city by and through the City Council.

30.02 Council Procedure

30.02.A

The City Clerk-Treasurer shall prepare the following items:

1) An agenda for the forthcoming meeting;
2) A compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the city during the preceding month, the list to be called the Claim Report and bearing headings Claimant, Purpose, and Amount;
3) A copy of all minutes to be considered; and
4) Copies of the other proposals, communications, or other documents as the City Clerk-Treasurer deems necessary or proper for advance consideration by the Council.

30.02.B

The City Clerk-Treasurer shall cause to be mailed or delivered to each member of the Council copies of all documents. Those items that are to appear on the Council agenda which are considered routine or about which no controversy or need for discussion can be foreseen by the Mayor and City Clerk-Treasurer may be placed on the consent agenda. The Council may approve all actions on the consent agenda with one vote. The motion to approve the consent agenda shall not be debated or discussed. At the request of any individual member of the Council prior to a vote upon the consent agenda, an item shall be removed from the consent agenda and placed upon the regular agenda for debate or discussion. Roberts Rules of Order (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the Charter or this code.

30.02.C

The order of business at regular meetings shall be as follows:

1) CALL TO ORDER
2) ROLL CALL
3) CROOKSTON FORUM – Individuals may address the Council about any item not contained on the regular agenda. Maximum of 15 minutes is allotted for the Forum. If the full 15 minutes are not needed for the Forum, the City Council will continue with the agenda. The City Council will take no official action on items discussed at the Forum, with the exception of referral to staff or Commission for future report.
4) PRESENTATIONS AND PUBLIC INFORMATION ANNOUNCEMENTS
5) APPROVE AGENDA
6) CONSENT AGENDA – These items are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or citizen so requests, in which event the item will be removed from the Consent Agenda and placed elsewhere on the agenda.

7) PUBLIC HEARINGS

8) REGULAR AGENDA

9) REPORTS AND STAFF RECOMMENDATIONS

10) ADJOURNMENT

30.02.D

Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except with the unanimous consent of the members of the Council, or scheduled public hearings or bid lettings at the time stated in the notice. All claims for payment must be filed at or before 12:00 noon on the Wednesday preceding the regular Council meeting at which they are to be considered.

30.03 Right to Administrative Appeal

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

30.04 Rules of Procedure for Appeals and Other Hearings

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

30.05 Accounts, Claims or Demands

30.05.A Generally

Except as to an annual salary, fees of jurors or witnesses fixed by law, or wages or salaries of employees which have been fixed on an hourly, daily, weekly or monthly basis by the Council and which by law are authorized to be paid on a payroll basis, any account, claim or demand against the city which can be itemized in the ordinary course of business, the Council shall not audit or allow the claim until the person claiming payment, or his agent, reduces it to writing, in items, and signs a declaration to the effect that the account, claim or demand is just and correct and that no part of it has been paid.

30.05.B Discretionary Exception

The Council may, in its discretion, allow a claim prepared by the City Clerk-Treasurer prior to the declaration by the claimant if the declaration is made on the check by which the claim is paid.

30.05.C Form of Declaration

The declaration provided for in division (A) is sufficient in the following form: I declare under the penalties of law that this account, claim or demand is just and correct and that no part of it has been paid. Signature of Claimant.

30.05.D Form and Effect of Declaration on Check

The declaration provided for in division (B) shall be printed on the reverse side of the check, above the space for endorsement by the payee, as follows: The undersigned payee, in endorsing this check declares that the same is received in payment of a just and correct claim against the city, and that no part of it has heretofore been paid. When endorsed by the payee named in the check, the statement shall operate and shall be deemed sufficient as the required declaration of claim.

30.06 Salaries

30.06.A

The Mayor shall receive an annual salary established by ordinance from time to time, which salary shall be paid to him or her in equal monthly installments. In the absence or disability of the Mayor, the Vice-Chairperson of the Council, after having served in place of the Mayor a continuous period of 30 days, shall be entitled to receive the same amount of salary as the Mayor, for all service beyond the initial 30-day period.

30.06.B

The Council members shall receive an annual salary established by ordinance from time to time, which salary shall be paid in equal monthly installments. The Assistant Mayor shall not receive the Council member salary during any period for which he or she receives the Mayor salary as hereinabove provided.

30.06.C

Nothing contained herein shall alter the rules set out in Section 2.07 of the City Charter regarding expenses.

30.07 City Seal

All contracts to which the city is a party may be sealed with the City Seal. The seal shall be kept in the custody of the Clerk-Treasurer and affixed by the Clerk-Treasurer. The official City Seal shall be a circular disc having engraved thereupon CITY OF CROOKSTON and other words, figures or emblems as the Council may, by resolution, designate.

30.08 Facsimile Signatures

The Mayor and City Clerk-Treasurer are hereby authorized to request a depository of city funds to honor an order for payment when the instrument bears a facsimile of his or her signature, and to charge

the same to the account designated thereon or upon which it is drawn, as effectively as though it were his or her manually written signature. The authority is granted only for the purpose of permitting the officers an economy of time and effort.

30.09 Interim Emergency Succession

30.09.A Purpose

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

30.09.B Succession to Local Offices

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

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

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

3) They may, based on the facts, declare a state of emergency.

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

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

30.09.C Duties of the Interim Emergency Council

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

Chapter 31: City Officials

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31.01 City Administrator

31.01.A

The City Administrator shall be the chief administrative officer of the City. The City Administrator shall be chosen by the Council solely on the basis of training, experience, executive and administrative qualifications. The City Administrator need not be a resident of the City at the time of the appointment, but may reside outside the City while in office only with approval of the Council. The City Administrator shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of five Council Members or four Council Members and the Mayor or Assistant Mayor in the event of a tie.

31.01.B Powers And Duties Of The City Administrator.

Subdivision 1.

The City Administrator shall be responsible to the Council for the administration of the Citys affairs. The City Administrator shall have the powers and duties set forth in the following subdivisions:

Subdivision 2.

The City Administrator shall see that this Charter and the laws, ordinances and resolutions of the City are enforced.

Subdivision 3.

The City Administrator shall appoint and may suspend, remove, promote, demote, transfer and otherwise discipline upon the basis of merit and fitness and subject to applicable personnel rules, all subordinate officers and City employees, except that the approval of the Council shall be necessary before any such action affecting heads of departments shall be effective.

Subdivision 4.

The City Administrator shall direct and supervise all departments, offices and agencies of the City, except as otherwise provided by law or Charter.

1. Administration Department;
2. Clerk-Treasurer Department;
3. Fire Department/Emergency Management/Building Inspector;
4. Police Department;
5. Public Works Department;
6. Community Development Department;
7. Information Technology Department;
8. Airport;
9. City Attorney;
10. Financial Advisor/Bond Consultant; and
11. City Engineer Consultant.

Subdivision 5.

The City Administrator or the City Administrators designee shall attend all meetings of the Council and may take part in discussion but not vote. The Council may, in its discretion, exclude the City Administrator from any meetings at which the employment terms and conditions, removal, suspension or other discipline of the City Administrator is considered.

Subdivision 6.

The City Administrator shall recommend to the Council for adoption such measures as the City Administrator deems necessary for the welfare of the people and the efficient administration of the Citys affairs.

Subdivision 7.

The City Administrator shall keep the Council fully advised on the financial condition and needs of the City, and shall prepare and submit to the Council the annual budget and capital plan.

Subdivision 8.

The City Administrator shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City at the end of each fiscal year.

Subdivision 9.

The City Administrator shall assist the Council with long term and strategic planning.

Subdivision 10.

The City Administrator shall perform such other duties as are prescribed by Charter or may be required by the Council.

Section 5.03, Administrative Organization.

The Council may by ordinance establish City departments, offices and agencies and prescribe their functions. No power or duty conferred by this Charter upon a particular office or agency shall be transferred to any other.

Section 5.04, Subordinate Officers.

There shall be a Clerk, Treasurer and such other subordinate officers to the City Administrator as the Council may establish by ordinance. The Clerk and Treasurer shall be subject to the direction of the City Administrator and shall have such duties as the Council may prescribe. The Council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices.

Section 5.05, Purchase And Contracts.

The City Administrator shall be the chief purchasing agent of the City. All City purchases and contracts shall be made or let by the City Administrator when the amount involved does not exceed any limit set by Council resolution. All other purchases shall be made and all contracts let by the Council after the recommendation of the City Administrator has first been obtained. All purchase contracts above the amount set by Council resolution, all other contracts, bonds and instruments of any kind to which the City is a party shall be signed by the Mayor and the City Administrator on behalf of the City and shall be executed in the name of the City. The Council may, by ordinance,

adopt further regulations for the making of bids and the letting of contracts including, but not limited to, regulations authorizing life cycle or total cost bidding.

Chapter 32: Departments, Boards and Commissions

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GENERAL PROVISIONS

32.01 Departments Generally

32.01.A Control

All departments of the city are under the overall control of the City Administrator. Heads of all departments are responsible to the City Administrator and subject to his or her supervision and direction, except as otherwise provided herein.

32.01.B Appointment

All department heads shall be appointed by the Council, except those as are created under statute. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations in effect in the city.

32.01.C Compensation

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

32.01.D Table of Organization and Lines of Responsibility.

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

32.01.E Budgetary Information

The City Administrator shall keep the Council fully advised on the financial condition and needs of the city, and shall prepare and submit to the Council the annual budget and capital plan.

32.02 Boards and Commissions Generally

32.02.A

All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, brought to the Ways and Means Committee for approval, and the appointment confirmed by the Council at the first regular meeting in January of each year. The term of each appointee shall be established and stated at the time of appointment, and terms of present Board and Commission members may be re-established and changed to give effect to this section. No Board or Commission member shall be appointed to more than two full consecutive terms. Terms of elected officials serving on a Board or Commission shall coincide with their term of office as members of the City Council. New appointees shall assume office on January 1, December 31 being the date of expiration of terms. Provided, however, that all appointees to Boards and Commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term.

32.02.B

No appointed Board or Commission member shall be an employee of the city except those who are members by virtue of their office. All appointed Board and Commission members shall serve without remuneration, but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when the expenses have been authorized by the Council before they were incurred.

32.02.C

The Chairman and Secretary shall be chosen from and by the Board or Commission membership at its first regular meeting in December of each year to serve for the next calendar year. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or non-feasance in office and his position filled as any other vacancy.

32.02.D

The City Administrator shall be an ex officio member of all Boards and Commissions; provided, that if he or she is unable to attend a meeting or act in the capacity of membership, he or she may be represented by his or her assistant or some person duly authorized by him or her. Except as otherwise provided, this section shall apply to all Boards and Commissions.

ADMINISTRATION DEPARTMENT

32.10 Establishment

32.10.A

An Administration Department is hereby established. The head of the Department shall be the City Administrator.

32.10.B

The City Administrator shall be responsible to the City Council. The City Administrator shall also make and file reports as may be requested by the City Council.

32.10.C

Powers and duties of the City Administrator are as presented in SEC. 31.01(B).

CLERK/TREASURER DEPARTMENT

32.20 Establishment

32.20.A

A Clerk/Treasurer Department is hereby established. The head of the Department shall be the Clerk/Treasurer.

32.20.B

The Clerk/Treasurer shall be responsible to the City Administrator. The Clerk /Treasurer shall also make and file reports as may be requested by the City Administrator.

FIRE DEPARTMENT

32.40 Establishment

32.40.A

A Fire Department is hereby established. The Fire Chief shall direct and supervise the Fire Department and be responsible to the City Administrator.

32.40.B

The Chief of the Fire Department shall have general supervision of the Fire Department and custody of all property used and maintained for the purposes of the Fire Department. The Chief shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State of Minnesota and ordinance of the city relative to a Fire Department and prevention and extinguishment of fires are duly observed. The Chief shall supervise the preservation of all property endangered by fire and shall control and direct all persons engaged in preserving property. Building regulations are also administered by the Fire Department. In case of absence or disability of the Chief for any cause, the next in command shall exercise all powers, perform all the duties and be subject to all the responsibilities of the Chief.

32.40.C

Chief of the Fire Department shall also make and file reports as may be requested by the Administrator.

32.40.D

The Building Official shall enforce the building and zoning regulations of the city and shall perform all duties assigned as follows:

1. Issue occupancy, building and other permits, and make and maintain records thereof.
2. Conduct inspections of buildings and use of land to determine compliance with the terms of the citys building and zoning regulations.
3. Maintain permanent and current records, including, but not limited to, all maps, amendments, and conditional use permits, variances, appeals and applications thereof.
4. Receive, file, and forward all applications for appeals, variances, conditional uses or other matters to the proper designated officials or bodies.
5. Notify the City Attorney of any violations of the building and zoning regulations for appropriate action.
6. The Fire Chief shall see that all rules and regulations and all provisions of the State of Minnesota and ordinances of the city relative to the operation of the Department are observed.

INFORMATION TECHNOLOGY DEPARTMENT

32.50 Establishment

32.50.A

An Information Technology Department is hereby established. The head of the Department shall be the Information Technology Director.

32.50.B

The Information Technology Director shall be responsible to the City Administrator. The technology facilities and equipment, including, but not limited to, computer programming and maintenance, as well as electronic communications, shall be under the supervision and control of all property of the Department. The Director shall also make and file reports as may be requested by the City Administrator.

PARKS AND RECREATION DEPARTMENT

32.60 Establishment

32.60.A

A Parks and Recreation Department is hereby established. The head of this Department shall be the Parks and Recreation Director. All park facilities and recreational programs and equipment shall be under the direct control of the Director.

32.60.B

The Parks and Recreation Director shall be responsible to the City Administrator. The Parks and Recreation Director shall also make and file reports as may be requested by the City Administrator.

POLICE DEPARTMENT

32.70 Establishment

32.70.A

A Police Department is hereby established. The Chief of Police shall direct and supervise the Police Department and be responsible to the City Administrator.

32.70.B

The Chief of the Police Department shall have general supervision of the Police Department and custody of all property used and maintained for the purpose of public safety. The Chief shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State of Minnesota and ordinances of the city relative to a Police Department are duly observed. The Chief of Police and all members of the Police Department shall have the powers and authority of police officers generally and shall perform the duties as are required of them by the law.

32.70.C

It is the duty of the Chief of Police, on or before the first Council meeting of each month, to file with the City Administrator a report as to the activities of the Department during the previous month. The Chief of Police shall also make and file other reports as may be requested by the City Administrator.

32.71 Police Reserve

32.71.A

A Police Reserve is hereby established.

32.71.B

The purpose of this section is to provide assistance to the Police Department to ensure that the public peace, health and safety of the city is preserved.

32.71.C

The functions of the Police Reserve are to provide supplementary assistance to the Police Department at special events, traffic or crowd control, and administrative or clerical assistance.

32.71.D

The Police Reserve is under the direct supervision and control of the Chief of Police. The Chief is responsible for the organization, administration, and operation of the Police Reserve, subject to the direction and control of the City Administrator. The Chief of Police may designate members of the Police Reserve to serve as officers of the Reserve. The Chief may, by order, establish rules and regulations to govern the Reserve including the fixing of specific duties of its members and providing for the maintenance of discipline.

32.71.E

The Chief of Police is responsible for coordinating functions of the Police Reserve and the Police Department. The Chief will institute training programs and establish annual requirements as he or she deems necessary. The Chief is responsible for organizing the Police Reserve, selecting its personnel, determining the number of members in the Police Reserve and discharging any member of the Police Reserve for good cause. The Chief of Police will maintain an inventory of all equipment issued to the Police Reserve. All duties of the Chief of Police described in this division are subject to the direction and control of the Administrator.

32.71.F General Provisions for Police Reserve Members.

1. Members of the Police Reserve must be of good moral character.
2. The Police Reserve is a volunteer organization and members are generally not compensated for their services. However, members may be compensated for certain duties, such as security for private and public events, dances, sporting events, transports, guarding prisoners in the hospital, or other special duties at the discretion of the Chief of Police.
3. Members of the Police Reserve are covered by the provisions of the city Workers Compensation Insurance and Liability Insurance policies while on duty.
4. Each Police Reserve member will be provided with suitable insignia or other identification as required by the Chief of Police.
5. No Police Reserve member shall carry any firearm while on duty.

PUBLIC WORKS DEPARTMENT

32.80 Establishment

32.80.A

A Public Works Department is hereby established. The head of the Department shall be the Public Works Director who is responsible to the City Administrator.

32.80.B

The Public Works Director shall be responsible for and have custody of all property of the Department, which shall include, but not necessarily be limited to, the city sewage systems, streets, refuse collection, water systems and engineering that shall be directed by the City Administrator.

32.80.C

The Public Works Director shall be responsible for all city water facilities, including but not limited to, pumping, filtration, distribution lines, and connections therewith, shall be under the direct supervision and control of the Director and the Director shall be responsible for and have custody and control of all property of the Department.

32.80.D

It is also the duty of the Public Works Director, on or before the first regular Council meeting of each month, to file with the City Administrator a report as to the activities of the Department during the preceding month. The Director shall also make and file other reports as may be requested by the City Administrator.

AIRPORT COMMISSION

32.100 Creation, Appointment, and Compensation

32.100.A Creation

Pursuant to the applicable Minnesota Statutes, there is hereby created an Airport Commission composed of five members.

32.100.B Appointment and Compensation

The members of the Commission shall be appointed by the Mayor and all appointments shall be confirmed by a majority vote of the Council. Members shall serve without compensation.

32.101 Term; Officers

32.101.A Term of Office

The term of office shall be three years with the terms staggered. The term of office shall expire on the first Monday in January of each year. Provided, however, that one member may be selected by the Council from its membership.

32.101.B Officers

The Commission shall elect one of its members to be Chairperson of the Commission, and one member thereof to be Vice-Chairperson. The Clerk-Treasurer shall be the Treasurer of the Commission. The officers so elected shall hold office for a term of one year and until their successors are appointed and qualified. The Commission may select from its membership one member to serve as Secretary, or may select a non-member to serve as Secretary.

32.102 Powers and Duties

The Commission shall have the authority and responsibility for the construction, enlargement, maintenance, equipment, operation and regulation of the Municipal Airport, also known as the Kirkwood Airport, as may be vested in the city under the laws of the State of Minnesota and of the United States relating to the construction, management and operation of the airport, except as mentioned herein.

32.102.A

The Commission may exercise, on behalf of the city, all the powers granted to the city by Minnesota Statutes, provided:

1. Real property, airports, restricted landing areas, airport protection privileges or personal property costing in excess of a sum to be set by the city may be acquired and condemnation proceedings may be instituted, only by authority of the Council. All rules and regulations provided for by M.S. SEC. 360.038, Subd. (3), as it may be amended from time to time, shall be effective only upon approval of the Council.

2. No real property and no airports, other air navigation facilities or air protection privilege shall be disposed of by the Commission, by sale, lease, or otherwise, except by authority of the Council, but the Commission may lease space, area or improvements and grant concessions for aeronautical purposes or purposes incidental thereto, subject to the provisions of M.S. SEC. 360.038, Subd. (4), as it may be amended from time to time.

32.102.B

The Commission shall have authority to hire or retain employees and professional services as may be necessary to accomplish the purposes for which it was appointed, and to fix any salaries.

32.102.C

The Commission shall keep and maintain full and complete financial records. The Commission shall maintain a current inventory of all airport property showing the approximate date acquired and the cost thereof.

32.103 Budget; Annual Report

32.103.A Budget

The Commission each year at the appropriate time shall prepare a budget for financing the airport for the ensuing year which shall be furnished to the Council. Final decision as to requested appropriations shall be reported to the Commission which shall adjust its budget if necessary so that its budget at all times shall be balanced. Money not expended shall be credited to the surplus of the Airport Fund.

1. The Commission shall control the expenditures of all monies collected for or placed to the credit of the Airport Fund. All monies received shall be paid to the city treasury, credited to the Airport Fund and kept separately from other monies of the city and paid out only upon itemized vouchers approved by the Commission.

2. The Commission shall have no power to levy taxes or borrow money and it shall not approve any claim or incur any obligations for expenditures unless there is unencumbered cash in the appropriate Airport Fund to the credit of the Commission with which to pay the same.

32.103.B Report of Commission

The Commission, as soon as possible after the end of each calendar year, shall prepare and present to the Council a report of its activities and finances. The Commission shall also prepare and present federal and state officials with reports as may be required by law, regulation or contract.

CHARTER COMMISSION

32.110 Establishment and Composition

A Charter Commission is hereby established. The Commission shall be composed of twelve members, who shall serve staggered four-year terms. The City Attorney, by reason of their position, shall be an ex officio member. The Mayor and Council shall make all appointments.

32.111 Powers and Duties

The Charter Commission shall have all the powers and duties defined or granted in the statutes and the city code and shall act in an advisory capacity to the Council.

PLANNING COMMISSION

32.120 Establishment and Composition

A Planning Commission is hereby established. The Commission shall be composed of five members, four of whom shall serve staggered four-year terms. The City Attorney and a member of the City Council, by reason of their positions, shall be ex officio members. The Mayor and Council shall make all appointments.

32.121 Powers and Duties

The Planning Commission shall have all the powers and duties defined or granted in the statutes and the city code relating to planning, zoning and subdivision regulations and shall act in an advisory capacity to the Council in all of these areas.
The Planning Commission shall provide assistance to the Council and Zoning Administrator in the administration of this chapter and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings, and make recommendations to the Council on all applications for zoning amendments, variances, and conditional use permits using the criteria in SEC. 152.198 through SEC. 152.200 of this chapter.

BOARD OF ZONING APPEALS

32.130 Establishment and Composition

A Board of Zoning Appeals is hereby established, which shall consist of the Council, vested with the administrative authority as hereinafter provided.

32.131 Powers and Duties

32.131.A

The Board of Zoning Appeals shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. The appeal may be taken by any person, firm, or corporation aggrieved or by any officer, department, board or bureau of the city. The Board of Zoning Appeals shall also have the power to grant variances to the provisions of this chapter under certain conditions indicated in SEC.152.200 of this chapter. No use variances; a use different than that allowed in the zoning district, shall be issued by the Board of Zoning Appeals.

32.131.B

Meetings by the Board of Zoning Appeals shall be held within the time and upon the notice to interested parties as is provided in this chapter and its adopted rules for the transaction of its business. The Board shall, within 60 days after receiving a request for a variance, refer the proposed variance to the Planning Commission for review and comment. After receiving the comments of the Planning Commission, the Board shall make its order deciding the matter, and shall serve a copy of the order

upon the appellant or petitioner by mail. Any party may appear at the meeting in person or by agent or attorney. The Board of Zoning Appeals may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be made and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the decision shall be stated and recorded. The decision of the Board shall not be final and any person having an interest affected by the decision shall have the right to appeal to District Court in the county in which the land is located on questions of law and fact. A vote of the majority of the Board of Zoning Appeals shall be necessary to reverse any decision of an administrative official of the city or to decide in favor of the applicant.

LIBRARY BOARD

32.140 Establishment and Composition

A Library Board is hereby established. The Board shall be composed of five members, who shall serve staggered three-year terms. The Mayor and Council shall make all appointments.

32.141 Powers and Duties

The Library Board shall have all the powers and duties defined or granted in the statutes and the city code relating to the public library (Lake Agassiz Regional Library) and shall act in an advisory capacity to the Council.

PARK BOARD

32.150 Purpose; Creation of Board

32.150.A Purpose

The nature and operation of the various parks and recreation programs of the city are uniquely allied with individual citizens. Therefore, it is in the best interests of the city and its citizens that concentration of public opinion and decision-making pertaining to city parks and recreation originate with a citizens board established for that purpose.

32.150.B Creation of Board

There is hereby created the Parks and Recreation Board which, for the purposes of this subchapter, is referred to as the Board.

32.151 Authority and Duties

Subject to the reservation of powers set forth in SEC. 32.153, the Board has the following duties and powers:

32.151.A

Establish policy for the creation, operation, maintenance and discontinuance of city parks and recreation programs;

32.151.B

Serve as a forum for consideration, study and response to city concerns relating to parks and recreation programs and services;

32.151.C

Establish goals and objectives for the Parks and Recreation Department;

32.151.D

Determine facility and equipment needs;

32.151.E

Evaluate community needs and desires for recreational programs and leisure activities;

32.151.F

Evaluate existing facilities and programs;

32.151.G

Develop and revise park and recreation policies;

32.151.H

Take steps to learn the opinion of the public on parks and recreation needs by means of public hearings, surveys, informal advisory elections or by any other method which will obtain opinions from the public;

32.151.I

Develop an annual budget for the Parks and Recreation Department which shall be included unchanged in the citys proposed budget submitted to the Council by the City Administrator unless the City Administrator attaches to the proposed budget a written explanation of each variance therefrom, along with the City Administrators reason(s) for the variance;

32.151.J

Develop a five-year capital improvement plan for the Parks and Recreation Department which shall be included unchanged in the citys proposed five-year capital improvement plan submitted to the Council by the City Administrator unless the City Administrator attaches to the proposed plan a written explanation of each variance therefrom, along with the City Administrators reason(s) for the variance; and

32.151.K

In the name of the city, approve all contracts, leases, acquisitions and disposals of property, debts, obligations, liabilities and expenditures for park and recreation purposes, provided that all purchases and contracts must be made consistent with Section 5.05 of the City Charter and no such action may be approved by the Board which cannot, at the time it is approved, be paid for in full from actual resources appropriated for the specific purpose for which the action is undertaken pursuant to a budget adopted or amended by the Council.

32.152 Personnel; Membership and Organization

32.152.A

The Board, either for itself or on behalf of the city, shall have no power to employ, compensate or control employees. The Board may deal with city administrative officers and employees solely through the City Administrator and, with the City Administrators permission, the Parks and Recreation Director. The City Administrator shall act as the purchasing agent for the Board.

32.152.B

The membership and organization of the Board shall be as follows:

32.152.B.1 Membership

The Board shall consist of five members, no more than one of which may be a Council member. Board members shall be appointed by the Mayor with the consent of the Council.

32.152.B.2 Term

A member of the Board shall serve a term of three years or until the members successor is appointed and qualified. No member shall serve for more than two successive full terms. Any person appointed as a member of the Board who was, as of December 31, 1999, a member of the Park Board shall serve out the term that the member then had; and the fact that the member has served on the Park Board and the Board through and up to the time of the members appointment shall be taken into account for the purpose of term limitation. The remainder of the persons initially appointed as Board members shall, by designation of the Mayor as part of the Mayors appointment, serve staggered terms so that the terms of no more than two members of the Board expire each calendar year.

32.152.B.3 Vacancies

Vacancies on the Board shall be filled in the same manner that original appointments are made. Any member who misses three or more consecutive meetings without an excuse approved by the Board shall be deemed to have vacated his or her office and the vacancy shall be filled in the manner provided for filling vacancies.

32.152.B.4 Removal

If the Council determines that a member of the Board has not performed his or her duties in accordance with the purposes of this subchapter or has been guilty of nonfeasance or malfeasance in office, the member shall be replaced in the manner for filling a vacancy.

32.152.B.5 Meetings

The Board shall hold regular meetings at least quarterly. Special meetings may be called by the Chairperson or by any two members, by written notice as required by law for city meetings. Meetings of the Board shall be subject to the Open Meeting Law.

32.152.B.6 Compensation

Members of the Board shall serve without pay, but they may be reimbursed for actual out-of-pocket expenses.

32.152.B.7 Officers

The members of the Board shall select one of their members as Chairperson and one of their members as Secretary. The Clerk-Treasurer shall act as Treasurer of the Board.

32.152.B.8 Quorum and Voting

A vote of at least three members shall be required to pass any measures. Three members of the Board shall constitute a quorum.

32.153 Reservation of Powers

If there is a conflict between a provision of this subchapter and a provision of the City Charter, the City Charter provision shall prevail. All powers and duties of the Council and the City Administrator set forth in the City Charter are preserved. However, the Council shall not, except by an affirmative vote of at least five Council Members, or four Council Members and the Mayor or the Assistant Mayor in the event of a tie, take any action relating to parks and recreation which has not first been approved or recommended by the Board or which has not been appealed from a Board action or decision.

32.154 Appeal to Council

Any person aggrieved by any action or decision of the Board may appeal the action or decision to the Council by filing a notice of appeal, in writing, with the Clerk-Treasurer within ten days of the action or decision. The Council shall then consider the action or decision and a determination by the Council thereon shall be final. The appealed action or decision shall remain effective pending appeal unless it is suspended by order of the Council.

32.155 Amendment

Like other ordinances, this subchapter may be repealed or amended, in whole or in part, by further action of the Council in the manner provided for the passage of ordinances in the City Charter.

BOARD OF PROPERTY MAINTENANCE APPEALS

32.160 Establishment and Composition

A Board of Property Maintenance Appeals is hereby established, which shall consist of the Council, vested with the administrative authority as hereinafter provided.

32.161 Powers and Duties

32.161.A

The Board of Property Maintenance Appeals shall act upon all questions as they may arise in the administration of the Property Maintenance Code, and it shall hear and decide appeals from and review any notice, order, requirement, decision, or other determination made by the City Administrator or his or her appointees.

32.161.B

Meetings by the Board of Property Maintenance Appeals shall be held within the time and upon the notice to interested parties as is provided in the Property Maintenance Code. Upon a vote of the majority, the Board of Property Maintenance Appeals may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be made and to that end shall have all the powers of the officer from whom the appeal was taken. The reasons for the decision shall be stated and recorded. The decision of the Board of Property Maintenance shall not be final and any person having an interest affected by the decision shall have the right to appeal to District Court in the county in which the land is located on questions of law and fact.

Chapter 33:
Special Service Districts

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FLOOD CONTROL DISTRICT

33.01 Establishment

Pursuant to the authority granted by the Legislature in Laws of 1997, 2nd Special Session, Chapter 2, Section 29, and M.S. Chapter 428A, as it may be amended from time to time, a Flood Control District is established within the city. The Flood Control District shall include all property located within the corporate limits of the city. The Flood Control District shall be a special service district as described in M.S. Chapter 428A, as it may be amended from time to time, and, except as specifically provided in this section, shall be governed by, and implemented in accordance with, the provisions of M.S. Chapter 428A, as it may be amended from time to time, except that:

33.01.A

The provisions of M.S. §428A.08, as it may be amended from time to time, shall not apply; and

33.01.B

The special service charges shall be levied on all property within the Flood Control District, and not limited to commercial, industrial and public utility property.

33.02 Flood Control Improvements

33.02.A

The city may undertake within the Flood Control District, from time to time, flood control improvements, including:

1. The acquisition of properties within or adjacent to the flood plain;
2. The demolition or removal of structures or improvements within or adjacent to the flood plain or where necessary to permit the construction or extension of flood control works; and
3. The construction, reconstruction, extension or maintenance of levees, dikes and other flood control works.

33.02.B

The city shall, before undertaking any flood control improvements under this subchapter, submit to the Commissioner of Natural Resources a description of the proposed flood control improvements. The city may proceed with the flood control improvements upon either approval of the Commissioner of Natural Resources or failure of the Commissioner of Natural Resources to either approve or reject the improvements within 30 days of such submission.

33.02.C

The costs of acquiring, constructing, reconstructing, extending or maintaining the flood control improvements may be paid for by the special service charges described in SEC. 33.03, from special assessments or improvement bonds issued under M.S. Chapter 429, as it may be amended from time to time, from federal or state grants, from money appropriated by the city from other sources, or from any combination of those sources.

33.03 Special Service Charges

The city shall, by resolution, establish special service charges which will be imposed annually on all owners of real property within the district. The amount of the special service charges to be imposed upon each parcel of real property shall be determined in accordance with the formula established by the governing body of the city, which formula may take into consideration such factors as the governing body shall consider relevant, including without limitation, the proximity of the property to the flood plain and the classification of the property under M.S. §273.13, as it may be amended from time to time. The special service charges will be imposed annually for the number of years determined by the governing body, provided that no special service charges shall be imposed more than 20 years from the date of adoption of this subchapter. The collections of the special service charges shall be deposited by the city into a flood control improvement fund, to be used to pay the costs of flood control improvements or to pay principal of and interest on bonds issued pursuant to M.S. Chapter 429, as it may be amended from time to time, to pay the costs of flood control improvements.

DOWNTOWN SPECIAL SERVICE DISTRICT

33.15 Establishment

Pursuant to the authority granted by the Legislature in Laws of Minnesota, 1991, Chapter 291, Article 4, Section 24, and M.S. §428A.01 to §428A.10, as it may be amended from time to time, a special service district is established wherein the city may render or contract for public services to be rendered, of a kind or degree not ordinarily provided throughout the city from general fund revenues. The special service district consists of that area described as follows:

Beginning at the intersection of the northerly side of Sixth Street and the easterly side of Burlington Northern Mainline rail bridge; then proceeding in a southerly direction along the easterly side of the main rail line to a point on the northerly bank of the Red Lake River; then proceeding in an easterly direction along the north bank of the Red Lake River to the point where it intersects with the westerly boundary of Broadway; then proceeding in an easterly direction parallel to the northerly line of Sixth Street to a point on the midline of the block bounded by Broadway on the west, Loring on the north and Ash on the east; then proceeding in a northerly direction along such midline extended to a point on the south boundary of Fletcher Street; then proceeding east along the south line of Fletcher Street to a point on the east line of Ash Street; then proceeding north along the east line of Ash Street to a point on the north line Third Street; thence proceeding west along the north line of Third Street to a point on the east line of Ash Street; thence proceeding north along the east line of Ash Street to a point on the south side of Fourth Street; thence proceeding east along the south side of Fourth Street to a point on the east side of Ash Street extended; then proceeding north along the east side of Ash Street as extended and the east side of Ash Street to a point on the north side of Fifth Street; then proceeding west along the north side of Fifth Street to a point on the east side of Broadway; then proceeding north along the east side of Broadway to a point on the north side of Sixth Street; then proceeding west along the north side of Sixth Street to the point of beginning.

33.16 Services

Within the special service district, the city may render or contract for any service or services to the extent that the service or services are of a kind or degree that is not ordinarily provided throughout the city from general revenues of the city, including, but not limited to, the repair, maintenance, operation,

and construction of any improvement authorized by M.S. §429.021, as it may be amended from time to time, parking services rendered or contracted for by the city, and any other service or improvement provided by the city or the Crookston Development Authority that is authorized by law or charter.

33.17 Service Charges

The city may impose service charges that are reasonably related to the special services provided. In imposing the service charges, the city must follow the procedures specified in M.S. §428A.01 to §428A.10, as it may be amended from time to time, including, but not limited to, imposing the service charges only after the filing of the required petition and only upon property within the special service district having the specified classification and use. Charges for service must be as nearly as possible proportionate to the cost of furnishing the service, and may be fixed on the basis of the service directly rendered, or by reference to a reasonable classification of the types of premises to which service is furnished, or on any other equitable basis.

33.18 Governing Law

The provisions of Laws of Minnesota 1991, Chapter 291, Article 4, Section 24 and M.S. §428A.01 to §428A.10, as it may be amended from time to time, in all respects govern the creation, existence, and operation of the special service district and the manner of imposing service charges therein and this subchapter must be construed consistently with said statutes.

SIDEWALK IMPROVEMENT DISTRICT

33.20 Establishment

Pursuant to the authority granted by the Legislature in MS. §435.44, as it may be amended from time to time, a Sidewalk improvement District is established within the City. The Sidewalk Improvement District shall be all property located within the City.

33.21 Costs

The total costs of sidewalk district improvements may be, by resolution, apportioned and assessed to all parcels or tracts of land located in the district on a uniform basis as to each classification of real estate. Where sidewalk widths are wider than the standard width of the district, the additional costs may be assessed as a direct benefit to the abutting property. An indirect district benefit assessment may involve all parcels or tracts of land located in the district without regard to the location of sidewalks.

33.22 Maximum Amortization of Costs

The Council may assess the costs on all district sidewalk improvements up to a maximum of five years on equal annual installments, plus interest on the unpaid balance.

33.23 Notice and Hearing

Before imposition of the costs as authorized in this subchapter, the City shall provide for notice and hearing substantially conforming to the material provisions of MS. §428A.03(1), as it may be amended from time to time.

33.24 Not Exclusive Finance Method

The costs of sidewalk district improvements may be paid for by apportionment and assessment under this subchapter, from special assessments or improvement bonds issued under MS. Chapter 429, as it may be amended from time to time, from state and federal grants, from money appropriated by the City from other sources, or from any combination of such sources.

Chapter 34:
Finance and Taxation

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ASSESSMENTS; FUNDS

34.01 Prepayment of Assessments

34.01.A

After the adoption of an assessment roll pursuant to M.S. Chapter 429, as it may be amended from time to time, and before certification of the assessment roll to the County Auditor, the City Clerk-Treasurer, or other authorized official, is authorized and directed to accept total prepayment of the assessment. As provided by law, such prepayment may be accepted only during the 30-day period following approval of the assessment roll.

34.01.B

This section shall apply to all assessment rolls which, on the effective date hereof, have been adopted by the Council but not yet certified to the County Auditor, and to all assessment rolls subsequently adopted by the Council.

34.02 Special Assessment Policy

The Council may, by resolution, adopt, from time to time amend, or repeal a special assessment policy.

34.03 Airport Fund

34.03.A Establishment

There shall be established in the treasury of the city an Airport Fund.

34.03.B Revenues and Expenditures

Any and all receipts derived by the city from property acquired, established or maintained as an airport, or available for the landing and take-off of aircraft, shall be paid into the fund, and all disbursements and expenditures from the fund shall be made only upon resolution of the Council. The fund shall be maintained by taxation, if necessary.

34.04 Trust or Escrow Funds for Fire or Explosion Losses

The city may use the proceeds from losses arising from fire or explosion of insured real property located in the city that are held in a trust or escrow account to secure, repair or demolish damaged or destroyed structures and clear the property in question, so that the structure and property are in compliance with local code requirements and applicable city code provisions. Any unused portion of the retained proceeds shall be returned to the insured. In addition, the regulatory and procedural provisions of M.S. 65A.50, Trust or Escrow Accounts; Insured Real Property Fire or Explosion Loss Proceeds, as it may be amended from time to time, are hereby incorporated herein and adopted by reference, including the penalty provision thereof.

LODGING TAX

34.15 Purpose

The promotion of the city as a tourist or convention center would benefit the economy and recognition of the city. The creation of a tax on lodging at hotels, motels, rooming houses, tourist courts and resorts for the purpose of providing funding for a convention and visitors bureau to promote the citys tourism and convention industry is in the best interest of the city and its citizens.

34.16 Definitions

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

LODGING FACILITY A hotel, motel, rooming house, tourist court, or resort, as those terms are commonly understood, where accommodations are furnished for consideration, other than the renting or leasing of such accommodations for a continuous period of 30 days or more. The furnishing of rooms by any legally constituted religious, educational or nonprofit organization shall not constitute lodging for the purposes of this subchapter.

OPERATOR The person who is the proprietor of the lodging facility, whether in the capacity of owner, lessee, sublessee, licensee or any officer, agent or employee of the person.

PERSON Any individual, corporation, partnership, association, limited liability company or partnership, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term **PERSON** is used in any provision of this section prescribing and imposing a penalty, the term as applied to a corporation, partnership, association, limited liability company or partnership, or any other combination of individuals, shall mean the officers or partners thereof as the case may be.

34.17 Imposition of Tax

34.17.A

Pursuant to the authority granted under M.S. 469.190, as it may be amended from time to time, there is imposed a tax in the amount of 3% on the gross receipts from the furnishing for consideration of accommodations at any lodging facility in the city.

34.17.B

The tax imposed under this subchapter shall be paid by the individual occupying the accommodations through the operator of the lodging facility at the time the charge for the accommodations is paid. The tax constitutes a debt owed to the city by the operator which is extinguished only upon payment of the tax to the city.

34.18 Collection

34.18.A Operator's Duties

Each operator shall collect the tax imposed under this subchapter at the time the rent charge for the accommodation is paid. The amount of the tax shall be separately stated from the rent so charged. The person paying the tax shall receive a receipt of payment from the operator.

34.18.B Reports

On or before the twenty-fifth day of each month, each operator shall submit to the Clerk-Treasurer a report of the rental activities in the preceding calendar month. In the event the twenty-fifth day of the month falls on a Saturday, Sunday or legal holiday, the report shall be due on the next succeeding city business day. The report shall be on forms provided by the city and shall contain, at a minimum, the following:

1. Name, address, telephone number of the lodging facility.
2. Reporting period covered by the report.
3. Total gross amount of accommodation charges collected during reporting period.
4. The amount of lodging tax required to be collected and due during the reporting period.
5. Name, date of birth, and signature of the operator or the operators agent submitting the report and the address and telephone number of the operator or agent, if different from the lodging facility.
6. The total amount of any uncollectable accommodation rental charges.
7. Other information as the city from time to time may, in its discretion, require.

34.18.C Payment of Tax

Payment of the tax for the preceding calendar month shall be submitted by each operator to the city with the report provided for that reporting period.

34.18.D Alternative Accounting

Upon written notice to the Clerk-Treasurer, an operator may, at the operators option, adopt any four-week accounting period other than a calendar month. Submission of the required reports and tax payments shall not be later than 25 days after the end of any reporting period unless the twenty-fifth day falls on a Saturday, Sunday or legal holiday, in which case the report and payment shall be submitted no later than the next succeeding city business day.

34.18.E Uncollectable Charges

The operator may off-set against the tax due in any reporting period the amount of any taxes imposed under this section previously paid as a result of any transaction which becomes uncollectable during such reporting period, but only in proportion to the portion of the amount which becomes uncollectable.

34.18.F Examination of Reports

After a report is filed, the Clerk-Treasurer may make any reasonable examination of the records and accounts of the lodging facility for which the report is made which the Clerk-Treasurer deems necessary for determining the correctness of that report. The tax imposed on the basis of an examination shall be the tax paid. If the tax due is found to be greater than the tax paid, the operator submitting the report shall remit the difference to the city within ten days after receipt of written notice. The notice shall be given personally or sent by certified mail to the address shown on the report. If the tax paid is greater than the tax found to be due, the excess paid shall be refunded to the operator at the address shown on the report.

34.19 Refunds

34.19.A

Any operator may file a claim for a refund of taxes paid in any reporting period that exceed the amount actually due for that period. The claim shall be in writing directed to the Clerk-Treasurer and must be received by the Clerk-Treasurer no later than one year following the payment of the contested taxes.

34.19.B

Upon receipt of the claim for refund, the Clerk-Treasurer shall determine the validity of the claim. The Clerk-Treasurer may approve the claim, deny the claim or make any other reasonable determination regarding the claim. The city shall refund any excess payments as determined by the Clerk-Treasurer. If no excess payments are found, the Clerk-Treasurer shall so notify the operator in writing.

34.20 Penalties

34.20.A

Any taxes not paid within 25 days following the close of a reporting period shall be subject to a penalty of 10%.

34.20.B

If an operator does not include the penalty with a late payment of the tax, the Clerk-Treasurer shall notify the operator in writing, served either personally or by certified mail, of the amount of penalty due. If the operator fails to pay the penalty within ten days of that notice, the Clerk-Treasurer may proceed to collect the penalty in the same manner as provided under this subchapter for the collection of unpaid taxes.

34.20.C

If an operator refuses or fails to pay the tax imposed by this subchapter, including any penalties, within 30 days following the close of the reporting period for which the tax is due, the Clerk-Treasurer shall determine an estimate of the tax due. For the purposes of making the estimates, the operator shall grant the Clerk-Treasurer access to all relevant books and records relating to the lodging facility. The Clerk-Treasurer shall notify the operator personally or by certified mail of the amount due. Full payment of the amount determined by the Clerk-Treasurer shall be made within ten days of the notice.

34.20.D

If an operator fails to pay a tax and/or penalty imposed under this subchapter within ten days of receipt of notice from the Clerk-Treasurer, the tax and/or penalty may be specially assessed against the property in the same manner as a special assessment for unpaid utility charges.

34.20.E

As an alternative to a special assessment, the City Attorney shall have the express authority to commence any legal action or actions to collect the tax and/or penalty due and, in addition, all costs of the collection including, but not limited to, reasonable attorneys fees.

34.21 Council Hearing

34.21.A

An operator aggrieved by any determination by or action(s) of the Clerk-Treasurer may request a hearing before the City Council.

34.21.B

A request for a hearing shall be in writing and shall set forth the basis for the request. The request shall be received by the Clerk-Treasurer not more than ten days following receipt by the operator of the notice or action giving rise to the request. If no request for a hearing is received within the ten days, the determination of the Clerk-Treasurer shall be final.

34.21.C

Upon receipt of a proper and timely request, a hearing shall be conducted at the next regular City Council meeting that is held at least 15 days after receipt of the request. The operator shall receive written notice of the day, time and place of the hearing at least ten days in advance of the hearing date.

34.21.D

The hearing shall be limited to the issues contained in the operators request.

34.21.E

The City Council may affirm, deny or modify the determination of the Clerk-Treasurer.

34.22 Deposit of Revenue; Distribution

34.22.A Separate Fund

All revenue collected by the city pursuant to this subchapter shall be deposited in a separate fund created for the purpose until appropriately distributed in accordance with division (B) below of this section.

34.22.B Distribution

1. 95% of the gross proceeds from the tax collected pursuant to this section shall be used toward funding a local convention and tourism bureau for the purpose of marketing and promoting the city as a tourist and convention center.

2. The city shall retain up to 5% of the gross proceeds, which may be transferred to the citys general fund to defray the costs of administering and enforcing this subchapter.

34.23 Violations

In addition to any other penalties that may be provided by this chapter, any willful violation of any provision of this subchapter, or the failure to tender a required report or the tendering of a false report constitutes a misdemeanor.

Chapter 35:
Emergency Management

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35.01 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 insure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

35.01.A

To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

35.01.B

To provide for the exercise of necessary powers during emergencies and disasters.

35.01.C

To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions.

35.01.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.

35.02 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, fire-fighting 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.

35.03 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 Emergency Management Director, called the Director. The Fire Chief shall serve as the Director unless otherwise approved by the Mayor and Council. 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 City Administrator.

35.04 Powers and Duties of Director

35.04.A

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

35.04.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 City Administrator.

35.04.C

The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the City Administrator for 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.

35.04.D

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

35.04.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 citys 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.

35.04.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.

35.04.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 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.

35.04.H

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

35.04.I

The Director shall prepare and submit reports on emergency preparedness activities when requested by the City Administrator.

35.05 Local Emergencies

35.05.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-Treasurer.

35.05.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.

35.05.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.[1]

35.06 Emergency Regulations

35.06.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.

35.06.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-Treasurer. 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-Treasurers Office shall be conspicuously posted at the front of 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.

35.06.C

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

35.06.D

During a declared emergency, the city is, under the provisions of M.S. §12.31, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering

[1] Penalty, see SEC. 35.99

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.[2]

35.07 Emergency Management a Government Function

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

35.08 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.

35.99 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.

[2]Penalty, see SEC. 35.99

Chapter 36: City Policy

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36.01 Worker's Compensation Requirement

36.01.A Contractors

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

36.01.B City Officers

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

36.02 Absentee Ballot Precinct

Pursuant to the provisions of M.S. §203B.13, as it may be amended from time to time, the Council hereby authorizes the Polk County Commissioners to establish an Absentee Ballot Counting Precinct and ratifies the ordinance of the Polk County Board of Commissioners adopted on the 20th day of August, 1986. The Absentee Ballot Precinct shall be located in the Polk County Courthouse for the purpose of receiving all absentee ballots for any state-wide primary or general election (or special referendum) held within the city. The Absentee Ballot Precinct shall be under the direct charge and supervision of the Polk County Auditor and shall be administered pursuant to the Minnesota Election Laws without cost to the city.

36.03 Franchise Ordinances

36.03.A Definition

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

36.03.B Franchise Ordinances

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

36.03.C Power of Regulation Reserved

The city shall have the right and power to regulate and control the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State of Minnesota.

36.03.D Conditions in Every Franchise

All conditions specified in this section shall be a part of every franchise even though they may not be expressly contained in the franchise:

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

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

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

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

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

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

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

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

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

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

8. That the franchisee may be obligated by the city to pay the city fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a

sum of money based upon gross operating revenues or gross earnings from its operations in the city.

36.03.E Further Provisions of Franchises

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

36.04 Disposal of Unclaimed and Excess Property

36.04.A Disposal of Unclaimed Property

36.04.A.1 Definition

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

36.04.A.2 Preliminary Notice

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

36.04.A.3 Notice and Sale

Upon adoption of a resolution declaring certain property to be abandoned property, the City Administrator shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of the property. The text of the notice shall also state the time, place and manner of sale of all the property, except cash and negotiables. The notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

36.04.A.4 Fund and Claims Thereon

All proceeds from the sale shall be paid into the general fund of the city and expenses thereof paid therefrom. The former owner, if he makes claim within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. The payment shall be also made from the general fund.

36.04.B Disposal of Excess Property

36.04.B.1 Declaration of Surplus and Authorizing Sale of Property

The City Administrator may, from time to time, recommend to the Council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the Council, the property shall be declared surplus, the value estimated and the City Administrator authorized to dispose of the property in the manner stated herein.

36.04.B.2 Surplus Property with a Total Estimated Value of Less Than $100

The City Administrator may sell surplus property with a total value of less than $100 through negotiated sale.

36.04.B.3 Surplus Property with a Total Estimated Value Between $100 and $500

The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from $100 to $500. Notice of the public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the City Administrators option. The sale may be by auction or sealed bids.

36.04.B.4 Surplus Property with a Total Estimated Value Over $500

The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value over $500. Notice of the public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. The sale shall be to the person submitting the highest bid.

36.04.B.5 Receipts from Sales of Surplus Property

All receipts from sales of surplus property under this section shall be placed in the general fund.

36.04.C Persons Who May Not Purchase – Exception

36.04.C.1

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

36.04.C.2

It is unlawful for any person to be a purchaser of property under this section if the purchase is prohibited by the terms of this section.[3]

[3] Penalty, see SEC. 10.99

36.05 Administrative Offenses and Penalties

36.05.A Purpose

Administrative offense procedures established pursuant to this Section are intended to provide the public and the City with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain City Code provisions. The procedures are intended to be voluntary on the part of those who have been charged with an administrative offense. At any time prior to the payment of the administrative penalty as provided for in this Section, the individual may withdraw from participation in the procedures, in which event the City, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and subsequently adjudicated guilty of the related criminal violation.

36.05.B Administrative Offense Defined

An administrative offense is a violation of a provision of the City Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Subsection (H).

36.05.C Notice

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

36.05.D Payment

Once such notice of violation is given, the alleged violator may, within 14 days of the time of issuance of the notice, pay the amount of the scheduled penalty for the violation, or request in writing that the matter be referred to the Polk County District Court as is provided in Subsection (E). The penalty may be paid in person or by mail, and payment shall be deemed an admission of the violation.

36.05.E Referral to Polk County District Court

Any person contesting an administrative offense pursuant to this Section may, within14 days of the time of issuance of the notice of violation, request in writing that the matter be referred to the Polk County District Court to be processed through the usual rules of Criminal Court. The request may be delivered in person or by mail to the Chief of Police and will be deemed effective when received.

36.05.F Failure to Pay

In the event a person charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable law.

36.05.G Disposition of Penalties

All penalties collected pursuant to this Section shall be paid to the City Clerk-Treasurer and may be deposited in the Citys general fund.

36.05.H Offenses and Penalties

Offenses which may be charged as an administrative offense and the penalties for such offenses may be established from time to time by resolution of the City Council. Copies of such resolutions shall be maintained in the office of the City Clerk-Treasurer.

36.05.I Subsequent Offenses

In the event a person is charged with a subsequent administrative offense within a 12 month period after paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by twenty five percent (25%) above the previous administrative penalty, except as otherwise stated in the penalty schedule or by resolution.

36.06 Criminal History Background Checks

36.06.A Purpose

The purpose and intent of this Section is to establish regulations that will allow law enforcement access to Minnesotas Computerized Criminal History information for specified non-criminal purposes of background checks for applicants described in Subsection (B) of this Section.

36.06.B Criminal History Background Investigations

The Crookston Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the following applicants:

1) All applicants for regular, full-time employment with the City or seasonal employment positions with the City that have interaction with children, finances, or positions that have access to security-sensitive areas, unless the Citys hiring authority concludes that a background investigation is not needed;

2) All applicants for the position of taxicab and personal transportation vehicle driver as defined in Section 118.12; and

3) All applicants for City licenses requiring a background check under the provisions of the City Code not set forth in subdivision (2) above.

36.06.C

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

36.06.D

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the City will not reject an applicant for employment on the basis of the applicants 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. The City will not reject an applicant for a license on the basis of the applicants 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 applicants request on this basis, the City shall notify the applicant in writing of the following:

1) The grounds and reason for the denial.

2) The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

3) The earliest date the applicant may reapply for employment or for the license.

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

Title V: Public Works

Chapter 50:
Municipal and Public Utilities

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Cross-reference:
Public Works Department, see SEC. 32.080

GENERAL PROVISIONS

50.01 Definitions

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

COMPANY, GRANTEE and FRANCHISEE Any public utility system to which a franchise has been granted by the city.

CONSUMER and CUSTOMER Any user of a utility.

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

SERVICE Providing a particular utility to a customer or consumer.

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

50.02 Fixing Rates and Charges for Municipal Utilities

All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, deposit, connection and meter testing fees, disconnection fees, reconnection fees including penalties for non-payment if any, and penalty surcharges for violation of utilities regulations, shall be fixed, determined and amended by the Council and adopted by resolution. No resolution shall be adopted before a public hearing has been held thereon. Notice of the public hearing shall be published once at least ten days prior thereto. Notice of adoption of the resolution shall be published at least 30 days prior to the effective date thereof. The resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Clerk-Treasurer and shall be uniformly enforced.

50.03 Contractual Contents

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

RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES

50.15 Billing, Payment and Delinquency

All municipal utilities shall be billed monthly or quarterly and a utilities statement or statements shall be mailed to each consumer each month. All utilities charges shall be delinquent if they are unpaid at the close of business on the fifth day of the month following the billing, provided, that if the fifth day of the month shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

50.16 Application, Connection and Sale of Service

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

50.17 Discontinuance of Service

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

50.17.A

The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the city code relative thereto, or any connection therewith; or,

50.17.B

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

50.17.C

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

50.17.D

No service of a residential customer shall be disconnected if the disconnection affects the primary heat source for the residential unit when the disconnection would occur during the period between October 15 and April 15, the customer has declared inability to pay on forms provided by the city, the household income of the customer is less than 185% of the federal poverty level as documented by the customer to the city, and the customers account is current for the billing period immediately prior to October 15 or the customer has entered into a payment under the schedule. The city shall, between August 15 and October 15 of each year, notify all residential customers of these provisions.

50.18 Ownership of Municipal Utilities; Right of Entry

50.18.A

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

50.18.B

The city has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, or any part thereof, and for the purpose of connecting and disconnecting service. If permission to enter the property is not granted, the Public Works Director is authorized to obtain an administrative search warrant from the district court. However, the proper city employee shall have the right to unrestricted entry when it is determined that there is an emergency or threat of danger.

50.19 Meter Accuracy

All water service shall be supplied through a meter which shall accurately measure the amount thereof supplied to any consumer. The consumer shall supply a safe and proper place for the installation of the meters. Meters shall be tested for accuracy by the city upon the request of any consumer who believes his meter to be inaccurate, or upon its own initiative. If, upon test, it appears that the meter overruns to the extent of 3% or more, the city shall pay the cost of the tests and shall make a refund for overcharges collected since the last known date of accuracy but for not longer than six months, on the basis of the extent of the inaccuracy found to exist at the time of the tests. If, upon test, it appears that the meter is slow to the extent of 3% or more, the consumer shall pay for undercharges since the last known date of accuracy but for not longer than six months on the basis of the extent of the inaccuracy found to exist at the time of the test. If, when any meter is tested upon the demand of a consumer, it is found to be accurate or slow or less than 3% fast, the consumer shall pay the reasonable cost of the testing.

50.20 Unlawful Acts

50.20.A

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

50.20.B

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

50.20.C

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

50.20.D

It is unlawful for any person to jumper or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.[4]

50.21 Municipal Utility Services and Charges a Lien

50.21.A

Payment for all municipal utility (as that term is defined in SEC. 50.01 of this code) service and charges shall be the primary responsibility of the fee owner of the premises served and shall be billed to the owner unless otherwise contracted for and authorized in writing by the fee owner and any other person (such as a tenant, contract purchaser, manager, etc.), as agent for the fee owner, and consented to by the city. If the utility service and charges are for a single metered multi-unit rental residential building, the owner of the building shall be the customer of record and this responsibility shall not be waived by contract or otherwise. The city may collect the same in a civil action or, in the alternative and at the option of the city, as otherwise provided in this section.

50.21.B

Each account is hereby made a lien upon the premises served. All accounts which are more than 45 days delinquent may, when authorized by resolution of the Council, be certified by the Clerk-Treasurer to the County Auditor, and the Clerk-Treasurer in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against the premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the city along with other taxes.

50.22 Municipal Utility Service Outside the City

The city may furnish municipal utility service to consumers outside the city, provided, that the consumers specifically agree to all of the terms of the city code, including, but not limited to, rules, regulations and rates adopted thereunder and the right to specially assess delinquent services, charges and penalties.

50.23 Delinquent Charges or Assessments

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

[4] Penalty, see SEC. 50.99

50.98 Violations; Penalty Surcharge

50.98.A Purpose

The city determines that violations of its municipal and public utilities regulations cause unnecessary expense and threaten the safety, health and general welfare of its residents. Criminal penalties alone are not always an efficient, and therefore, effective means to assure compliance. It is in the public interest to establish additional methods to insure and encourage compliance with and recover the increased costs resulting from violations of utilities regulations.

50.98.B Civil Penalty for Violation

Any person violating any rule or regulation contained in or adopted by the Council under the provisions of this chapter shall pay to the city a penalty surcharge in an amount determined by the Council as provided in this chapter. A separate violation is deemed committed upon each day during or on which a violation occurs or continues. This penalty surcharge is in addition to the criminal fine or penalty provided for in SEC. 50.99.

50.98.C Determination of Violation

The Public Works Director, or other proper city official, shall determine whether a violation has occurred and the person or persons responsible for the violation. The Public Works Director may adopt rules containing procedures for the investigation and determination of alleged violations of utility regulations.

50.98.D Responsibility of Owner and Occupant

It is the primary responsibility of all owners and occupants of private property to comply with the utility rules and regulations contained or adopted under the authority of this title.

50.98.E Collection

The city may prepare a bill for the penalty surcharge amount and mail it to the person responsible for the violation and the amount shall then be due and payable. The city may collect the penalty surcharge due by appropriate court action. If the person violating the rule or regulation is a municipal utilities customer or an occupant of property owned by a municipal utilities customer, the amount of the penalty surcharge may be added to the customers municipal utility bill.

50.99 Penalty

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

50.99.A

The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.

50.99.B

The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Chapter 51: Solid Waste

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Cross-reference:
Penalty surcharge, see SEC. 50.98

51.01 Definition

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

REFUSE Includes all drained organic material resulting from the preparation of food and spoiled or decayed food from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags and discarded clothing, and tree or lawn clippings.

51.02 Unlawful Acts

51.02.A

It is unlawful for any person to store or deposit refuse except as provided in this chapter and the regulations adopted by the Council under this chapter.

51.02.B

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

51.02.C

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

51.02.D

It is unlawful for any person to use the refuse container or dumpster of another without express written permission. Permission to use a refuse container or dumpster cannot be implied because the refuse container or dumpster is empty or is accessible to the public.

51.02.E

It is unlawful for any person to deposit refuse from any source, rubbish, offal or the body of a dead animal in any place other than a sanitary landfill.

51.02.F

It is unlawful for any person occupying property on which collectible refuse is produced or accumulated to refuse or fail to obtain the collection service provided under this chapter. In unusual cases where the collection or disposal of refuse by collection service is impractical, an alternative type of disposal may be permitted by the Public Works Director upon the occupants or owners request therefor.[5]

51.03 Storage Containers

Except as otherwise stated in this section, all refuse shall be stored in plastic bags approved by the city and purchased from the city or its designated distributors. Tree clippings may be stored in tied bundles no longer than four feet. Lawn clippings, leaves and other garden and lawn waste may be

[5] Penalty, see SEC. 50.99

stored in containers protected from wind and other elements. Recyclable materials designated by the city for collection may be stored in recycling containers approved by the city or, if the city has not approved containers for recycling, in bags or boxes.[6]

51.04 Collection and Disposal of Refuse

The city shall provide for collection and disposal of refuse from residential properties in a sanitary manner to insure the health, safety and general welfare of its residents. Containers shall be placed at the designated collection points on days specified by the city.

51.05 Additional Rules and Regulations

The Council may by resolution adopt additional rules and regulations not inconsistent with this chapter as may be necessary or helpful to the effective collection and disposal of refuse in the city.

51.06 Property of the City

All materials at public disposal sites are the property of the city. It is unlawful for any person to separate, collect, carry off or dispose of the materials except by direction of the city.[7]

51.07 Deposit of Materials Other Than Refuse

Materials other than refuse may be deposited at the city designated disposal site upon payment of charges therefor.

[6] Penalty, see SEC. 50.99
[7] Penalty, see SEC. 50.99

Chapter 52: Sewer Service

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Cross-reference:
Penalty surcharge, see SEC. 50.98

GENERAL PROVISIONS

52.01 Definitions

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

ASTM American Society for Testing Materials.

APPROVING AUTHORITY Concurrent approval by the Council, the City Engineer, the City Health Officer, and the Public Works Director.

AUTHORITY The City of Crookston, Minnesota, or its representative thereof.

BOD_5 or BIOCHEMICAL OXYGEN DEMAND The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Centigrade in terms of milligrams per liter (mg/l).

BUILDING DRAIN That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the building wall.

BUILDING SEWER The extension from the building drain to the public sewer or other place of disposal.

CHEMICAL OXYGEN DEMAND (COD) The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).

COMPATIBLE POLLUTANT Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS permit if the treatment facilities are designed to treat the pollutants to a degree which complies with effluent concentration limits imposed by the permit.

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

DIRECTOR The Public Works Director or his or her authorized deputy, agent or representative.

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

FECAL COLIFORM Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

FLOATABLE OIL Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

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

INCOMPATIBLE POLLUTANT Any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.

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 nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, D, D, E, and I.

INFILTRATION Water entering the sewage system (including building drains and pipes) from the ground through such 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.

INTERFERENCE The inhibition or disruption of the wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the citys NPDES and/or SDS Permit. The term includes a sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or more stringent state criteria applicable to the method of disposal or use employed by the city.

MPCA 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 the treatment facilities or would interfere with the operation of the treatment facilities, pursuant to Section 307(b) of the Act.

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 Sections 402 and 405 of the Act.

NATURAL OUTLET Any outlet, including storm sewers and combined sewers, which overflows 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 BOD_5 concentration not greater than 280 mg/l and a suspended solid (TSS) concentration not greater than 280 mg/l.

OTHER WASTE Municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil tar, chemicals, and all other substances not sewage or industrial wastes.

pH The logarithm of the reciprocal of the concentration of hydrogen ions expressed in 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 Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than $^1/_2$ inch (1.27 cm) in any dimension.

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 which has as its primary purpose the collection of wastewaters from individual point source discharges and connections.
2. **COMBINED SEWER.** A sewer intended to serve as a sanitary sewer and a storm sewer.
3. **FORCE MAIN.** A pipe in which wastewater is carried under pressure.
4. **INTERCEPTOR SEWER.** A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
5. **PRIVATE SEWER.** A sewer which is not owned and maintained by a public authority.
6. **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.
7. **STORM SEWER or STORM DRAIN.** A drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.

SIGNIFICANT INDUSTRIAL USER Any industrial user of the wastewater treatment facility which has a discharge flow in excess of 25,000 gallons per average work day, or has exceeded 5% of the total flow received at the treatment facility, or whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307(a) of the Act, or whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the systems effluent quality, or emissions generated by the treatment system.

SLUG Any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration of flows during normal operation, and which adversely affects the collection and/or performance of the wastewater treatment works.

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. 8, 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 Section 307 (a) of the Act.

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.

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

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 the treatment.

WATERCOURSE A natural or artificial channel for the passage of water, either continuously or intermittently.

WPCF The Water Pollution Control Federation.

52.02 Use of Public Sewers Required

52.02.A

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

52.02.B

It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this section and the citys NPDES/SDS permit.

52.02.C

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

52.02.D

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which are 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, is required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this section, within 180 days of the date the public sewer is operational, provided the public sewer is within 100 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official 30-day notice shall be served instructing the affected property owner to make the connection.

52.02.E

If the owner(s) fails to connect to a public sewer in compliance with a notice given under this chapter, the city may undertake to have the connection made and to collect the cost thereof under SEC. 50.21.[8]

52.03 Private Wastewater Disposal

52.03.A

Where a public sewer is not available under the provisions of SEC. 52.02 of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

52.03.B

Prior to commencement of construction of a private wastewater disposal system, the owner(s) 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 deemed necessary by the city.

52.03.C

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 authorized representatives 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.

52.03.D

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Minn. Rules Chapter 7080, as it may be amended from time to time, entitled, Individual Sewage Treatment System Standards. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

52.03.E

At the time as 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 180 days in compliance with this section, and within 30 days after the connection is made any septic tanks, cesspools, and similar private wastewater disposal system shall be cleaned of sludge, the bottom broken to permit drainage, and the tank or pit filled with suitable material.

52.03.F

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

[8] Penalty, see SEC. 50.99

52.03.G

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the State of Minnesota.

52.04 Tampering With, Damaging System Facilities

It is unlawful for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities.[9]

52.05 User Rate Schedule and Charges

Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions set forth in SEC. 52.55 through SEC. 52.60.

SEWER USE REGULATIONS

52.15 Building Sewers and Connections

52.15.A

Any new connection(s) to the sanitary sewer system is prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow, BOD_5, and suspended solids, as determined by the Public Works Director.

52.15.B

It is unlawful for any unauthorized person to 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.

52.15.C

52.15.C.1

There shall be two classes of building sewer permits:

a) For residential and commercial service; and

b) For service to establishments producing industrial wastes.

52.15.C.2

In either case, the owner or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plan, specifications, or other information considered pertinent in the judgment of the Public Works Director. A permit and inspection fee shall be paid to the city at the time application is filed.

[9] Penalty, see SEC. 50.99

52.15.D

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 directly or indirectly be occasioned by the installation of the building sewer.

52.15.E

A separate and independent building sewer shall be provided for every building.

52.15.F

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Public Works Director, to meet all requirements of this section.

52.15.G

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city and the current regulations of the Minnesota Pollution Control Agency. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

52.15.H

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 in an approved means and discharged to the building sewer.

52.15.I

It is unlawful for any person to make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

52.15.J

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city and State of Minnesota, to the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All connections shall be made gastight and watertight, 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 Public Works Director before installation.

52.15.K

The applicant for the building sewer permit shall notify the Public Works Director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Public Works Director or his or her representative.

52.15.L

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to their original condition.[10]

52.16 Discharges of Unpolluted Drainage

52.16.A

It is unlawful for any person to discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, non-contact cooling water, or unpolluted industrial process waters to any sanitary sewer.

52.16.B

Storm water and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Public Works Director, to a storm sewer or natural outlet.[11]

52.17 Prohibited Discharges

It is unlawful for any person to discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

52.17.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, hydridges, and sulfides.

52.17.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 $^1/_2$ 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.

52.17.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, or personnel of the wastewater disposal system.

[10] Penalty, see SEC. 50.99
[11] Penalty, see SEC. 50.99

52.17.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 Section 307(a) of the Clean Water Act.[12]

52.18 Public Works Director May Limit Certain Discharges

It is unlawful for any person to discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Public Works Director that the wastes can harm either the sewers, the sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Public Works Director will give consideration to the factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The Public Works Director may set limitations lower than limitations established in the regulations below if, in his or her opinion, more severe limitations are necessary to meet the above objectives. The substances prohibited are:

52.18.A

Any wastewater having a temperature greater than 150 degrees F. (65.6 degrees C.), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104 degrees F. (40 degrees C.), or having heat in amounts which inhibit biological activity in the wastewater treatment works resulting in interference therein.

52.18.B

Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32 degrees F. and 150 degrees F. (0 degrees C. and 65.6 degrees C.); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/1, whether emulsified or not.

52.18.C

Any quantities of flow, concentrations, or both which constitute a slug as defined in SEC. 52.01.

52.18.D

Any garbage not properly shredded. 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.

52.18.E

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.

[12] Penalty, see SEC. 50.99

52.18.F

Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

52.18.G

Non-contact cooling water or unpolluted storm, drainage, or ground water.

52.18.H

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 the quantities that would cause disruption with the wastewater disposal system.

52.18.I

Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the Public Works Director in compliance with applicable state or federal regulations.

52.18.J

Any waters or wastes containing arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, zinc, phenolic compounds which cannot be removed by the wastewater treatment system, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to the degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for the materials.

52.18.K

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.

52.18.L

Any waters or wastes containing BOD_5 or suspended solids of the 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 this chapter.[13]

52.19 Actions by Public Works Director

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in SEC. 52.18, and which in the judgment of the Public Works Director, may have a deleterious effect upon the sewage works, processes, equipment, receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may:

52.19.A

Reject the wastes;

[13] Penalty, see SEC. 50.99

52.19.B

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

52.19.C

Require control over the quantities and rates of discharge; and/or

52.19.D

Require payment to cover the added costs of handling and treatment of the wastes not covered by existing taxes or sewer charges under the provisions of SEC. 52.05 of this chapter. If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Director pursuant to the requirements of the MPCA, and shall be located as to be readily and easily accessible for cleaning and inspection.

52.20 Dilution of Discharges Prohibited

It is unlawful for any person to increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this section, or contained in the National Categorical Pretreatment Standards or any state requirements.[14]

52.21 Maintenance of Pretreatment Facilities by Owner

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(s).

52.22 Grease, Oil, and Sand Interceptors

The Public Works Director may require grease, oil, and sand interceptors when, in his or her opinion, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in SEC. 52.18(D) of this subchapter, any flammable wastes as specified in SEC. 52.17(A) of this subchapter, sand or other harmful ingredients; except that the 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(s) 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 Public Works Director. Any removal and hauling of the collecting materials not performed by the owners personnel, must be performed by a currently licensed waste disposal firm.

[14] Penalty, see SEC. 50.99

INDUSTRIAL WASTE DISPOSAL

52.35 Required Measurement and Observation Facilities

Any person discharging industrial waste into the city system or any connected disposal system, shall provide and maintain a suitable structure, or control manhole, with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes by the Public Works Director. 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. The metered water supply to a source of industrial waste volume, where it can be established that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume, will be acceptable if approved by the Public Works Director.

52.36 Measurements, Tests and Analyses

52.36.A Industrial Waste Analysis

The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the Public Works Director, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate 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 Public Works Director. 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 Public Works Director at the times and in the manner as prescribed by the Public Works Director. The owner shall bear the expense of all measurements, analyses, and reporting required by the city. At the times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an independent laboratory.

52.36.B Measurement and Test Procedures

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

52.37 Accidental Discharges

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. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owners expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Public Works Director for review and approval prior to construction of the facility. Review and approval of the plans and operating procedures shall not relieve any person from the responsibility to modify the persons facility as necessary to meet the requirements of this chapter. Accidental discharges of prohibited waste or slugs shall be reported to

the Public Works Director by the person responsible for the discharge, or by the owner or occupant of the premises where the discharge or slug occurs, promptly upon obtaining knowledge of the fact of the discharge or slug. The notification will not relieve any person 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 or federal law. Employers shall insure that all employees who may cause or discover a discharge, are advised of the emergency notification procedure.[15]

52.38 Special Agreements

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial discharger whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment thereof by the industrial discharger, provided that National Categorical Pretreatment Standards and the citys NPDES and/or State Disposal System Permit limitations are not violated.

52.39 Obstructions; Catch Basin/Waste Trap

It is unlawful for any person having charge of any building or other premises which drains into the public sewer to permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 90 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 the other work as the Public Works Director may deem necessary. Upon the owners refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 90 days, the Public Works Director may cause the work to be completed at the expense of the owner or a representative thereof and the city may collect the cost thereof in the manner provided by SEC. 50.21 of this title.[16]

52.40 Bad Service Connection

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 Public Works Director may direct. Each day after 15 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Public Works Director may then cause the work to be done, and recover from the owner or agent the expense thereof in the manner provided by SEC. 50.21.[17]

52.41 Car Washes

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.[18]

[15]Penalty, see SEC. 50.99
[16]Penalty, see SEC. 50.99
[17]Penalty, see SEC. 50.99
[18]Penalty, see SEC. 50.99

SEWER SERVICE CHARGE SYSTEM

52.55 Purpose

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

52.56 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 (for example, billing and associated bookkeeping and accounting costs).

BIOCHEMICAL OXYGEN DEMAND or BOD$_5$ The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C., expressed in milligrams per liter.

COMMERCIAL USER Any place of business which discharges sanitary waste as distinct from industrial wastewater.

COMMERCIAL WASTEWATERS Domestic wastewater emanating from a place of business as distinct from industrial wastewater.

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

EXTRA STRENGTH WASTE Wastewater having a BOD and/or TSS greater than Normal Domestic Strength Wastewater and not otherwise classified as an incompatible waste.

GOVERNMENTAL USER Users which are units, agencies or instrumentalities of federal, state or local government discharging Normal Domestic Strength Wastewater.

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. 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, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:
   a) Division A: Agriculture, Forestry and Fishing.
   b) Division B: Mining.
   c) Division C: Manufacturing.
   d) Division E: Transportation, Communications, Gas, and Sanitary Sewers.
   e) Division I: Services.
2. For the purpose of this definition, domestic waste shall be considered to have the following characteristics:
   a) BOD$_5$: Less than 280 mg/l.

b) Suspended solids: Less than 280 mg/l.

3. 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.

INDUSTRIAL WASTEWATER The liquid processing wastes from an industrial manufacturing process, trade, or business including, but not limited to, all Standard Industrial Classification Manual Divisions A, B, D, E and I manufacturers as distinct from domestic wastewater.

INSTITUTIONAL USER Users other than commercial, governmental, industrial or residential users, discharging primarily normal domestic strength wastewater (for example, non-profit organizations).

NORMAL DOMESTIC STRENGTH WASTEWATER Wastewater that is primarily produced by residential users, with BOD_5 concentrations not greater than 280 mg/l and suspended solids concentration not greater than 280 mg/l.

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. **OPERATION AND MAINTENANCE** includes replacement.

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

PUBLIC WASTEWATER COLLECTION SYSTEM A system of sanitary sewers owned, maintained, operated and controlled by the city.

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.

RESIDENTIAL USER A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.

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 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 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.

SLUG Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration of flows during normal operation and which adversely affects the collection system and/or performance of the wastewater treatment works.

STANDARD INDUSTRIAL CLASSIFICATION MANUAL Office of Management and Budget, 1972.

SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS The total suspended matter that either floats on the surface 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 as defined in standards issued pursuant to Section 307(a) of the Act, which upon exposure to or assimilation into any organism will cause adverse effects.

USER CHARGE A charge levied on users of a treatment works for the users 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.

52.57 Establishment of Sewer Service Charge System

52.57.A

A sewer service charge system is hereby established 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.

52.57.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.

52.57.C

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

52.57.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 adopted in the manner provided by SEC. 50.02.

52.57.E

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

52.57.F

Sewer service charges and the sewer service fund will be administered in accordance with the provisions of SEC. 52.60.

52.58 Determination of Sewer Service Charges

52.58.A

1. Users of the wastewater treatment works shall be identified as belonging to one of the following user classes:
   a) Residential.
   b) Commercial.
   c) Industrial.
   d) Institutional.
   e) Governmental.
2. The allocation of users to these categories for the purpose of assessing user charges and debt service charges shall be the responsibility of the Clerk-Treasurer. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

52.58.B

Each user shall pay operation, maintenance, and replacement costs in proportion to the users proportionate contribution of wastewater flows and loadings to the treatment plant, with the minimum rate for loadings of BOD and TSS being the rate established for concentrations of 280 mg/l BOD and 280 mg/l TSS (for example, Normal Domestic Strength Wastewater). Those industrial users discharging segregated normal domestic strength wastewater only, can be classified as commercial users for the purpose of rate determination.

52.58.C

The charges assessed residential users and those users of other classes discharging normal domestic strength wastewater shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows:

52.58.C.1 Residential Users

Billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The per month billable wastewater volume shall be equal to monthly metered water usage. The city may require residential users to install water meters for the purpose of determining billable wastewater volume.

52.58.C.2 Non-residential Users

The billable wastewater volume of non-residential users may be determined in the same manner as for residential users, except that if the city determines that there are significant seasonal variations in the metered water usage of non-residential users resulting in a proportionate increase in wastewater volume; then billable wastewater volume shall be calculated on the basis of monthly metered usage as recorded throughout the year and calculated on the basis of wastewater flow meters. The city may, at its discretion, require non-residential users to install the additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

52.58.D

Determination of user charges. User charges for normal domestic strength users shall be determined as follows:

52.58.D.1 Calculation of Unit Cost for Treatment of Normal Domestic Strength Wastewater

Where:

Uomr = Unit Cost for Operation, Maintenance and Replacement in $/Kgal

Comr = Total annual OM&R costs plus nonpayment contingency.

Tbwv = Total annual billable wastewater in kgal.

52.58.D.2 Calculation of User Charge

Where:

Uc = User charge.

Uomr = Unit cost for Operation, Maintenance and Replacement in $/Kgal.

bwv = Billable wastewater volume of a particular user in kgal.

52.58.E

Recovery of local construction costs. Local construction costs of the wastewater treatment facilities will be recovered through a per-connection debt service charge determined as follows:

$$Cc = Cds/Tc$$

Where:

Cc = Debt service charge per connection.

Cds = Cost of annual debt service plus nonpayment contingency.

Tc = Total number of connections to the wastewater treatment facilities.

52.58.F

Determination of sewer service charge relating to local construction costs. The sewer service charge for local construction costs for a particular connection shall be determined as follows:

$$SSC = UC + Cc$$

Where:

SSC = Sewer Service Charge.

Uc = User Charge.

Cc = Connection Charge for Debt Service.

52.58.G

The sewer service charges established in this section shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than normal domestic strength or wastes of unusual character, or contractual agreements with the users, as long as the following conditions are met:

52.58.G.1

The user pays operation, maintenance, and replacement costs in proportion to the users proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of normal domestic strength wastewater.

52.58.G.2

The measurements of the wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the city as provided for in this chapter.

52.58.G.3

A study of unit costs of collection and treatment processes attributable to flow, BOD, TSS and other significant loadings shall be developed for determining the proportionate allocation of costs to flows and loadings for users discharging wastes of greater than normal domestic strength or wastes of unusual character.

52.59 Sewer Service Fund

52.59.A

A sewer service fund is hereby established 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.

52.59.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 Clerk-Treasurer 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 section.

52.59.C

Revenue generated by the sewer service charge system sufficient to insure adequate replacement throughout the design 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.

52.59.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.

52.60 Administration

The sewer service charge system and sewer service fund shall be administered according to the following provisions.

52.60.A

The Clerk-Treasurer 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 Council with a report of the costs annually in May. The 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 division (B) of this section and Section 204(b)(2)(A) of the Federal Water Pollution Control Act, as amended. 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 insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

52.60.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.

52.60.C

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

52.60.D

Bills for sewer service charges shall be rendered according to the provisions of SEC. 50.15 through SEC. 50.23.

52.60.E

Any costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the costs of restoring wastewater treatment services, clean up and restoration of the receiving water and environs, and sludge disposal, shall be borne by the discharger(s) of the wastes. The city may collect any portion of the costs incurred by it in a civil action or, in the alternative and at the option of the city, as a special assessment against the premises causing the discharge and from which the discharge occurred. All costs are hereby made a lien upon the premises causing the discharge and upon which the discharge occurred. All charges which are on July 31 of each year more than 45 days past due, shall, after notice and hearing, be certified by the Clerk-Treasurer of the city to the County Auditor between the first and tenth day of October of each year, and the Clerk-Treasurer in so certifying the charges to the County Auditor shall specify the amount thereof, the description of the premises served and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against the premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the city along with other taxes.

ADMINISTRATION AND ENFORCEMENT

52.70 Control by Public Works Director

The Public Works Director has control of and general supervision over all public sewers and is responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer is maintained.

52.71 Powers and Authority of Inspectors

52.71.A

The Public Works Director or other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observations, measurement, sampling, and testing pertinent to the discharges to the citys sewer system in accordance with the provisions of this chapter.

52.71.B

The Public Works Director 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. Any 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.

52.71.C

While performing necessary work on private properties, the Public Works Director or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company or owner, and the company or owner shall be held harmless for injury or death to the city employees and the city shall indemnify the company or owner against loss or damage to its or his or her property by city employees and against liability claims and demands for personal injury or property damage asserted against the company or owner and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company or owner to maintain safe conditions as required in this chapter.

52.71.D

The Public Works Director 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.

52.72 Violations

52.72.A

Any person who violates any provision 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.

52.72.B

If a person continues any violation beyond the time limit provided for in division (A), each day in which any violation occurs shall be deemed as a separate offense.

52.72.C

Any person violating a provision of this chapter is liable to the city for any expense, loss, or damage occasioned by the city by reason of the violation.[19]

[19] Penalty, see SEC. 50.99

Chapter 53: Water Service

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Cross-reference:
Penalty surcharge, see SEC. 50.98
Public Works Department established, see SEC. 32.080

53.01 Deficiency of Water and Shutting Off Water

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

53.02 Owner's Responsibility to Repair Leaks

The City realizes that water service line repairs occurring from the curb stop to the water main pose a large hardship on property owners. In order to relieve this burden the City Council has authorized a water service line insurance policy. The policy components are as follows: The City will contract to have water service line leaks repaired from the water main up to and including the curb stop or gate valve. If there is a question as to which valve is applicable it will be determined by the Public Works Director. Service line repairs from beyond the curb stop or gate valve to the building will still be the property owners responsibility. This policy only covers water leaks or inoperable curb stops. It does not cover frozen service lines. The service line repairs will be funded through an increase to the customer meter charge based on size of meter. The Public Works Director will review the funding annually to insure the program is properly funded. This policy will cover all water accounts with the exception of mobile home parks.

53.03 Abandoned Services

All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of the excavation. The city shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the city. When new buildings are erected on the site of old ones, and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge and utility connection fee shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing the pipe from the main. Also, the improper disposition thereof shall be corrected by the city and the cost incurred shall be borne by the person causing or allowing the work to be performed.[20]

53.04 Service Pipes

Every service pipe must be laid in a manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the main and the building shall be the responsibility of the owner. Service pipes must extend from the corporate valve to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve, the same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Service installations shall comply with requirements of the Minnesota State Plumbing Code. All joints shall be left uncovered until inspected. Minimum size connection with the water mains for all new permits shall be one inch in diameter.

[20] Penalty, see SEC. 50.99

53.05 Private Water Supplies

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

53.06 Prohibited Uses or Restricted Hours

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

53.07 Private Fire Hose Connections

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

53.08 Opening Hydrants

It is unlawful for any person, other than members of the Fire Department or other person duly authorized by the city, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.[21]

53.09 Unmetered Service

Unmetered service may be provided for construction, flooding skating rinks, and any other purpose. The service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; provided, however, that by acceptance thereof the consumer agrees to have the city estimate the water used. In so estimating, the city shall consider the use to which the water is put and the length of time of unmetered service.[22]

53.10 Water Meters

All water meters shall be purchased and maintained by the city. All repairs of water meters not resulting from normal usage shall be the responsibility of the property owner, as shall any maintenance and repair of meters which are not of the remote reading type. All water meters shall be installed and

[21] Penalty, see SEC. 50.99
[22] Penalty, see SEC. 50.99

controlled by the city and the cost of installation shall be the responsibility of the property owner. Any remote type meter in need of replacement by reason of normal usage shall be furnished to the owner, and installed at the expense of the city. All meters shall be sealed and the seal broken only by a city employee acting within the course of his or her employment.

53.11 Work to be in Accordance with Minnesota Plumbing Code

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

Title VII: Traffic Code

Chapter 70: General Provisions

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70.01 Definitions

Except as otherwise defined in the city code, or where the context clearly indicates a contrary intent, the words and terms defined in M.S. Chapter 169, as it may be amended from time to time, shall be applicable to this title.

70.02 Application

Except as otherwise provided in this code, the provisions of this title are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

70.03 Minnesota Statutes Adopted by Reference

Except as otherwise provided in this title, the regulatory and procedural provisions of M.S. Chapter 168, Chapter 169 (commonly referred to as the Highway Traffic Regulation Act) and Chapter 171, as may be amended from time to time, are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

70.04 Scope

Except as otherwise provided in this code, the provisions of this title relate exclusively to the streets and alleys in the city, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon the streets and alleys.

70.05 Failing to Comply with Orders of Officer

It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.[23]

70.06 Placing Unauthorized Traffic-Control Signals

No device, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this section; provided, that when traffic and parking control is marked or sign-posted, the marking or sign-posting shall attest to Council action thereon.[24]

70.07 Tampering with Traffic-Control Devices

It is a misdemeanor for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless the person has written permission from the city or is an agent, employee or contractor for the city, or other authority having jurisdiction over a particular street, and acting within the authority or scope of a contract with the city or the other authority.[25]

[23] Penalty, see SEC. 70.99
[24] Penalty, see SEC. 70.99
[25] Penalty, see SEC. 70.99

70.08 City May Authorize Temporary Restrictions

The city, acting through the Chief of Police, may temporarily restrict traffic or parking for any private, public or experimental purpose. It is the duty of the Chief of Police to so restrict traffic or parking when a hazardous condition arises or is observed.[26]

70.99 Penalty

Every person violates a section, division, or provision of this title when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

70.99.A

Where the specific section, division, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, the person shall be punished as for a misdemeanor; where the person stands convicted of violation of any provision of this title, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.

70.99.B

As to any violation not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor. 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.

70.99.C

As to any violation of a provision adopted by reference, he or she shall be punished as specified in the provision, so adopted.

70.99.D

In 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.

[26] Penalty, see SEC. 70.99

Chapter 71: Traffic Rules

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GENERAL TRAFFIC RULES

71.01 Driving Contrary to Lane Restrictions or Posted Prohibitions

It is a misdemeanor for any person to drive a vehicle contrary to lane restrictions or prohibitions painted on any street, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.[27]

71.02 Load Limits; Operation in Violation of

The City Engineer may from time to time impose upon vehicular traffic on any part or all of the streets the load limits as may be necessary or desirable. The limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.[28]

71.03 Truck Routes

It is unlawful for any person to drive a tractor, agricultural implement, truck over 9,000 pounds gross vehicle weight, truck-trailer, tractor-trailer or truck tractor in through traffic, upon any street except those which have been designated and sign-posted as truck routes. For the purpose of this title, **THROUGH TRAFFIC** means originating without the city and with a destination without the city, as distinguished from **LOCAL TRAFFIC** which means traffic either originating or having a destination within the city.[29]

71.04 Driving on Sidewalk, Walkway or Bicycle Trail Prohibited

It is unlawful for any person to drive or operate a motorized vehicle on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress to private property lying on the other side thereof.[30]

71.05 Exhibition Driving

71.05.A

It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

71.05.B

It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for the operation to prevent

[27] Penalty, see SEC. 70.99
[28] Penalty, see SEC. 70.99
[29] Penalty, see SEC. 70.99
[30] Penalty, see SEC. 70.99

injury to persons or damage to property; provided, that this section shall not apply to driving on a racetrack. For purposes of this section, a **RACETRACK** means any track or premises whereon motorized vehicles, horses, dogs, or other animals or fowl legally compete in a race or timed contest for an audience, the members of which have directly or indirectly paid a consideration for admission.[31]

RECREATIONAL MOTOR VEHICLES

71.15 Definitions

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

MOTORIZED BICYCLE means a bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 mph on a flat surface with not more than one percent grade in any direction when the motor is engaged. "Motorized bicycle" includes an electric-assisted bicycle as defined in Minnesota Statutes, Section 169.01, Subd. 4b.

ALL-TERRAIN VEHICLE or ATV means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 960 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

CLASS 1 ALL-TERRAIN VEHICLE means an all-terrain vehicle that has a total dry weight of less than 1,000 pounds.

CLASS 2 ALL-TERRAIN VEHICLE means an all-terrain vehicie that has a total dry weight of 1,000 to 1,800 pounds.

SNOWMOBILE means a selfpropelled vehicle designed for travel on snow or ice steered by skis or runners.

OFF-ROAD VEHICLE means a motordriven recreational vehicle capable of crosscountry travel on natural terrain without benefit of a road or trail.

RECREATIONAL MOTOR VEHICLE means any selfpropelled vehicle and any vehicle propelled or drawn by a selfpropelled vehicle used for recreational purposes, including, but not limited to, a snowmobile, allterrain vehicle or offroad vehicle.

OWNER means a person, other than a lien holder, having a property interest in, or title to, a recreational motor vehicle, who is entitled to the use or possession thereof.

OPERATE means to ride in or on and have control of a recreational motor vehicle.

OPERATOR means the person who operates or is in actual physical control of a recreational motor vehicle.

[31] Penalty, see SEC. 70.99

71.16 Recreational Motor Vehicle Operating Restrictions[32]

It is unlawful for any person to operate a recreational motor vehicle as follows:

A) On a public sidewalk or walkway provided or used for pedestrian travel.

B) On private property of another without lawful authority or written permission of the owner or occupant.

C) Except for snowmobiles on signposted snowmobile trails, on any lands owned or occupied by a public body or on frozen waters, including, but not limited to, dikes, school grounds, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails and golf courses.

D) While the operator is under the influence of liquor or narcotics, or habit-forming drugs.

E) At a rate of speed greater than reasonable or proper under all of the surrounding circumstances.

F) In a careless, reckless or negligent manner so as to endanger the person or property of another or cause injury or damage thereto.

G) Towing any person or thing on a public street or highway except through the use of a rigid tow bard attached to the rear of an automobile.

H) At a speed greater than 10 mph when within 100 feet of any lakeshore, except in channels, or of a fisherman, ice house, skating rink, or sliding area, nor where the operation would conflict with the lawful use of property or would endanger other persons or property.

I) 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.

J) Chasing, running over, or killing any animal, wild or domestic.

K) During the hours between 11:00 o'clock P.M. of one day and 7:00 o'clock A.M. of the day next following.

71.17 Additional Operating Regulations for Snowmobiles

71.17.A

It is unlawful for any person to operate a snowmobile upon the roadway, shoulder or inside bank or slope of any State of County Highway within the City limits of Crookston. Operation in the ditch or on the outside bank within the right-of-way of any State or County Highway within the City of Crookston except interstate highways or freeways is permitted in conformance with State law, unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes. It is unlawful for any person to operate a snowmobile on the roadway of any local street except for travel directly to and from the City limits, a gas station and the place where it is principally garaged/stored and then only on the right-hand side of such street or highway and in the same direction as the local traffic on the nearest lane of the roadway adjacent thereto. Operation must be in conformance to all applicable state and local traffic laws.

[32] Penalty, see SEC. 70.99

71.17.B

A snowmobile may make a direct crossing of a street or highway except an interstate highway or freeway, provided:

1. The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.

2. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

3. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard.

4. In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.

5. If the crossing is made between the hours of onehalf hour after sunset to onehalf hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

71.17.C

No snowmobile shall enter any intersection without making a complete stop. The operator shall then yield the right of way to any vehicles or pedestrians which constitute an immediate hazard.

71.17.D

Notwithstanding any prohibition in this Section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.

71.17.E

No person under fourteen (14) years of age shall operate on streets or highways or make a direct crossing of a street or highway as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets or highways as permitted under this Section and make a direct crossing thereof only if he has in his immediate possession a valid snowmobile safety certificate issued by the Commissioner of Conservation as provided by Minnesota Statutes 1969, Section 84.86. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Subparagraph.[33]

71.18 Owner Responsibility

71.18.A

It is unlawful for the owner of any recreational motor vehicle to permit its operation on private property without written permission of the owner or occupant, on City property without the written permission of the Council, or on other public property without written permission of the body in charge thereof. For purposes of this Section, the owner shall be conclusively presumed to have given such permission unless the recreational motor vehicle so operated shall have been reported stolen to a law enforcement agency.

[33]Penalty, see SEC. 70.99

71.18.B

Every person leaving a recreational motor vehicle in a public place shall lock the ignition, remove the key and take the same with him.[34]

71.19 Snowmobile Equipment

It is unlawful for any person to operate a snowmobile unless it is equipped with the following:

71.19.A

Standard mufflers which are properly attached and in constant operation, and which reduce the noise of operation of the motor to the minimum necessary for operation. Mufflers shall comply with Regulation CONS. 55 which is hereby adopted by reference as it existed on September 1, 1970. No person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile motor, and the exhaust system shall not emit or produce a sharp popping or crackling sound.

71.19.B

Brakes adequate to control the movement of and to stop and hold the snowmobile under any conditions of the operation.

71.19.C

A safety or socalled "deadman" throttle in operating condition, so that when pressure is removed from the accelerator or throttle, the motor is disengaged from the driving track.

71.19.D

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. Such head lamp shall be so aimed that glaring rays are not projected in to the eyes of an oncoming vehicle operator. It shall also be equipped with at least one read tail lamp having a minimum candle power 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. The equipment to be in operating condition when the vehicle is operated between the hours of one-half hour after sunset to one half hour before sunrise or at times of reduced visibility.

71.19.E

Reflective material at least sixteen inches on each side, forward of the handlebars, so as to reflect or beam light at a 90 degree angle.[35]

71.20 Additional ATV Operating Regulations

It is unlawful for any person to operate an all-terrain vehicle on the roadway of any local street except for the purpose of snow removal if the ATV is equipped with a plow and except for travel directly to and from the City limits, a gas station and the place where it is principally garaged/stored and then only on the right-hand side of such street or highway and in the same direction as the local

[34] Penalty, see SEC. 70.99
[35] Penalty, see SEC. 70.99

traffic on the nearest lane of the roadway adjacent thereto. Operation must be in conformance with all applicable state and local traffic laws.

SPECIAL VEHICLES

71.30 Special Vehicle Use on Roadway

71.30.A Definitions

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 or mini-truck and being the holder of a permit under this Section.

Motorized Golf Cart A three or four wheel vehicle designed commercially for the primary purpose of golfing, powered by gas or electricity which does not exceed 20 mph.

Mini-Truck As defined in Minnesota Statutes, Section 169.01, Subd. 40(a), a 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 the Code of Federal Regulations, title 49, sections 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 Minnesota Statutes, Section 169.011, Subds. 47 and 39; or a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

Designated Roadways All City roadways.

71.30.B

No person shall operate a motorized golf cart or mini-truck on designated roadways without obtaining a permit as provided in this Section; and, no person shall operate a motorized golf cart or mini-truck on roadways which are not designated roadways, alleys, and other public property.

71.30.C

Every application for a permit shall be made on a form supplied by the City and shall contain all of the following information:

1) The name and address of the applicant.
2) The nature of the applicants physical handicap, if any.
3) Model name, make, and year and number of the motorized golf cart or mini-truck.
4) Current drivers license or reason for not having a current license.
5) If applicant does not have a Minnesota drivers license, applicants date of birth.
6) Other information as the City may require.

71.30.D

All fees for applications, if any, and for permits under this Section shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the Clerk-Treasurer, and open to inspection during regular business hours. For the purpose of fixing the fees, the Council may subdivide and categorize permits under a specific permit requirement, provided, that any subdivision or categorization shall be included in the resolution authorized by this subdivision.

71.30.E

Permits shall be granted for a period of one (1) year and may be renewed annually January 1 to December 31.

71.30.F

No permit shall be granted or renewed unless the following conditions are met:

1) The applicant must demonstrate that he or she currently holds or has held a valid Minnesota drivers license to operate a mini-truck.

2) The applicant must demonstrate that he or she is at least 16 years of age to operate a motorized golf car.

3) 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 on designated roadways.

4) The applicant must provide evidence of insurance in compliance with the provisions of Minnesota Statutes concerning insurance coverage for the motorized golf cart or mini-truck.

5) The applicant has not had his or her drivers license revoked as a result of criminal proceedings.

71.30.G

Motorized golf carts and mini-trucks may only be operated on designated roadways, not state or federal highways, except to cross at designated intersections.

71.30.H

Motorized golf carts 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.

71.30.I

Motorized golf carts shall display the slow-moving vehicle emblem provided for in Minnesota Statutes, Section 169.045, as it may be amended from time to time, when operated on designated roadways.

71.30.J

Motorized golf carts and mini-trucks shall be equipped with a rearview mirror to provide the driver with adequate vision from behind as required by Minnesota Statutes, Section 169.70, as it may be amended from time to time.

71.30.K

The operator of a motorized golf cart or mini-truck may cross any street or highway intersecting a designated roadway.

71.30.L

Every person operating a motorized golf cart or a mini-truck under permit on designated roadways has all of the rights and duties applicable to the driver of any other vehicle under the provisions of Minnesota Statutes, Chapter 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts or mini-trucks and except as otherwise specifically provided in Minnesota Statutes, Section 169.045(7), as it may be amended from time to time.

71.30.M

The Council may suspend or revoke a permit granted under this Section upon a finding that the holder thereof has violated any of the provisions of this Section or Minnesota Statutes, Chapter 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 designated roadways.

71.30.N

The number of occupants on the motorized golf cart or mini-truck may not exceed the design occupant load.

71.30.O

Authorized City staff may operate City-owned motorized golf carts 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.

71.30.P

Mini-truck equipment requirements:

71.30.P.1

A mini-truck may be operated under permit on designated roadways if it is equipped with all of the following:

a) At least two headlamps.

b) At least two tail lamps.

c) Front and rear turn-signal lamps.

d) An exterior mirror mounted on the drivers side of the vehicle and either an exterior mirror mounted on the passengers side of the vehicle or an interior mirror.

e) A windshield.

f) A seat belt for the driver and front passenger.

g) A parking brake.

Chapter 72:
Parking Regulations

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GENERAL PROVISIONS

72.01 Presumption as to Owner and Driver

As to any vehicle parking in violation of this title or Chapter 96, when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner.

72.02 Impounding and Removing Vehicles

When any police officer finds a vehicle standing upon a street or city-owned parking lot in violation of any parking regulation, the officer is hereby authorized to require the driver or other person in charge of the vehicle to remove the same to a position in compliance with this chapter or Chapter 96. When any police officer finds a vehicle unattended upon any street or city-owned parking lot in violation of any parking regulation, the officer is hereby authorized to impound the unlawfully parked vehicle and to provide for the removal thereof and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against the vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from the place of storage or safekeeping.

PARKING PROHIBITIONS AND RESTRICTIONS

72.15 Parking Contrary to Posted Restrictions or Prohibitions

It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restrictions or prohibitions painted on any curb, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.[36]

72.16 General Parking Prohibitions[37]

It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic-control device in any of the following places:

A) On a sidewalk;

B) In front of a public or private driveway;

C) Within an intersection;

D) Within ten feet of a fire hydrant;

E) On a crosswalk;

[36] Penalty, see SEC. 70.99
[37] Penalty, see SEC. 70.99

F) Within 20 feet of a crosswalk at any intersection;

G) In a signposted fire lane located upon a street or alley or upon other public or private property;

H) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

I) Within 50 feet of the nearest rail of a railroad crossing;

J) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly sign-posted;

K) Alongside or opposite any street excavation or obstruction when the stopping, standing or parking would obstruct traffic;

L) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

M) Upon any bridge or other elevated structure upon a street;

N) At any place where official signs prohibit or restrict stopping, parking or both;

O) In any alley, except for loading or unloading and then only so long as reasonably necessary for the loading and unloading to or from adjacent premises; or

P) On any boulevard which has been curbed.

72.17 Unauthorized Removal

It is unlawful for any person to move a vehicle not owned by the person into any prohibited area or away from a curb a distance as is unlawful.[38]

72.18 Stopping or Parking in Violation of Direction of Officer

It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.[39]

72.19 Parallel Parking

Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or both, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with, and within 12 inches of, the right-hand curb, and, where painted markings appear on the curb or the street, the vehicle shall be within the markings, front and rear; provided that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within 12 inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon the one-way street; and it is unlawful to park in violation of this section.[40]

[38] Penalty, see SEC. 70.99
[39] Penalty, see SEC. 70.99
[40] Penalty, see SEC. 70.99

72.20 Angle Parking

Where angle parking has been established by Council resolution, and is allowed, as shown by curb marking or sign-posting, or both, each vehicle stopped or parked shall be at an angle of approximately 45 to 60 degrees with the front wheel touching the curb and within any parking lines painted on the curb or street, provided that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic. It is unlawful to park in violation of this section.[41]

72.21 Manner of Parking on Streets Without Curbs

Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street. It is unlawful to park in violation of this section.[42]

72.22 Parking Time Limits[43]

Parking on streets shall be limited as follows:

72.22.A

It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of 24 hours.

72.22.B

The Chief of Police may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, 15-minute, 30-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs any zones so established. The zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

72.22.C

It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time the vehicle has been parked.

72.22.D

For the purpose of enforcement of this section, any vehicle moved less than one block in a limited time parking zone shall be deemed to have remained stationary.

72.22.E

It is unlawful to park or leave standing any vehicles, as follows:

[41] Penalty, see SEC. 70.99
[42] Penalty, see SEC. 70.99
[43] Penalty, see SEC. 70.99

72.22.E.1

On the following downtown East-West streets from 1:00 a.m. to 7:00 a.m. on Tuesdays, Thursdays and Saturdays:

a) Loring Street from Market Street to Ash Street;

b) Fletcher Street from Market Street to Ash Street;

c) Robert Street from Sampsons Addition Bridge to the Robert Street Bridge;

d) Second Street from Market Street to Ash Street;

e) Third Street from the Burlington Northern tracks to Elm Street;

f) Fourth Street from the Burlington Northern tracks to Elm Street;

g) Fifth Street from the Burlington Northern tracks to North Ash Street; and

h) Sixth Street from Main Street to Broadway.

i) Elm Street from 3rd Street to 4th Street.

72.22.E.2

On the following downtown North-South streets from 1:00 a.m. to 7:00 a.m. on Mondays, Wednesdays and Fridays:

a) Market Street from Fletcher Street to Second Street;

b) Main Street from the Red Lake River Bridge to Sixth Street;

c) Broadway from the Red Lake River Bridge to Sixth Street;

d) Ash Street from Loring Street to Third Street; and

e) Ash Street from Third Street to Fourth Street.

72.23 Snow Emergencies

72.23.A Purpose

The rapidly increasing use of the public streets in the City for the movement and parking of motor vehicles requires the adoption of special emergency snow and ice removal regulations and procedures in order that hazards and obstructions to the movement of fire, police, emergency and other vehicles will be minimized, the public safety, health and welfare protected, and public funds preserved.

72.23.B Definitions

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

SNOW EMERGENCY A condition of snowfall, snow accumulation or ice accumulation or anticipated snowfall, snow accumulation, or ice accumulation which creates or is likely to create hazardous street conditions endangering or impeding or likely to endanger or impede the movement of fire, police, emergency or other vehicular traffic, or otherwise endanger the safety, health or welfare of the public.

RESIDENTIAL STREETS All City streets except those designated in City Code, Section 72.22 (E).

72.23.C Declaration of Emergency

Whenever the Public Works Director, in the exercise of sound judgment and discretion, determines that a snow emergency exists in the City, the Public Works Director may declare a snow emergency by communicating such declaration to the local news media and through other available media/means. Failure to effectively communicate shall not invalidate such declaration.

72.23.D Duration

The snow emergency shall begin and end at times stated by the Public Works Director as part of the snow emergency declaration. If at least two (2) hours before the expiration of the initial or any extension of a snow emergency, a declaration of extension is made by the Public Works Director by communicating the same in the manner(s) provided for the initial declaration, the snow emergency shall be extended for an additional period as stated in the declaration of extension. Failure to effectively communicate shall not invalidate the extension.

72.23.E Parking Restrictions

It is unlawful to park or leave standing any motor vehicle on the side of any residential street designated by the Public Works Director for prohibited parking as part of the snow emergency declaration or any extension(s) thereof.

72.24 Truck Parking

72.24.A

It is unlawful to park a detached semi-trailer upon any street, city-owned parking lot, or other public property except streets as specifically designated by the Council by resolution and sign-posted.

72.24.B

It is unlawful to park a truck (other than a truck of 12,000 pounds gross vehicle weight, or less), truck-trailer, tractor-trailer or truck-tractor within an area zoned as a residential district except for the purpose of loading or unloading the same.

72.24.C

It is unlawful to park a commercial vehicle of more than 12,000 pounds gross vehicle weight upon any street in the business district except streets as specifically designated by the Council by resolution and sign-posted, but parking of the vehicle for a period of not more than 20 minutes shall be permitted in the space for the purpose of necessary access to abutting property while actively loading or unloading when the access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

72.24.D

It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projection beyond the original length of the vehicle diagonally along any street except for a time sufficient to load or unload.

72.24.E

Parking of commercial vehicles is permitted in duly designated and sign-posted loading zones, and in alleys, for a period of up to 20 minutes, provided that the alley parking does not prevent the flow of traffic therein, all of which shall be for the purpose of access to abutting or adjacent property while actively loading or unloading.[44]

72.25 Physically Handicapped Parking

72.25.A

Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Police officers are authorized to tag vehicles on either private or public property in violation of the statutory privileges.

72.25.B

It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing, a motor vehicle in a sign-posted fire lane at any time, or in lanes where, and during the hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

72.25.C

Citizen volunteers may aid in the enforcement of statutory parking privileges for the physically handicapped by providing the Police Department with proof of the violations. Upon receipt of the proof, the police may issue a notice of violation to the registered owner of the vehicle by mail. [45]

72.26 Parking Rules in City Parking Lots

In city-owned parking lots, the Council may limit the sizes and types of motor vehicles to be parked thereon, hours of parking, and prescribed method of parking, provided that the limitations and restrictions are marked or sign-posted thereon. It is unlawful to park or leave standing any vehicle backed into a parking place, to drive in a direction opposite the flow of traffic marked by one-way signs or arrows, or to park any vehicle in any city-owned parking lot contrary to the restrictions or limitations marked or sign-posted therein.[46]

72.27 Unattended Vehicle

72.27.A

It is unlawful for any person to leave a motor vehicle unattended while the engine is running, unless all of the doors are locked.

72.27.B

It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition, unless all of the doors are locked.[47]

[44] Penalty, see SEC. 70.99
[45] Penalty, see SEC. 70.99
[46] Penalty, see SEC. 70.99
[47] Penalty, see SEC. 70.99

Title IX: General Regulations

Chapter 90: Abandoned, Unlicensed, Unregistered, or Inoperable Vehicles

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90.01 Definitions

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

ABANDONED MOTOR VEHICLE A motor vehicle as defined in M.S. Chapter 169.01, subdivision 3, as it may be amended from time to time, that has remained for a period of more than 48 hours on public property illegally, or more than four hours on public property if that property is properly posted; or has remained on private property for a period of time, as determined under M.S. Chapter 168B.04, Subd. 2, as it may be amended from time to time, without the consent of the person in control of the property; and is lacking vital component parts, or is in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean any other motor vehicle defined as unauthorized in M.S. Chapter 168B.011, Subd. 4, as it may be amended from time to time, or a motor vehicle defined as junk in M.S. Chapter 168B.011, Subd. 3, as it may be defined from time to time, or a motor vehicle voluntarily surrendered by its owner to and accepted by the city. A classic car or pioneer car, as defined in M.S. Chapter 168, as it may be amended from time to time, shall not be considered an **ABANDONED MOTOR VEHICLE** within the meaning of this section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the city code, shall not be considered **ABANDONED MOTOR VEHICLES** within the meaning of this section.

ABANDONED, UNLICENSED, UNREGISTERED OR INOPERABLE VEHICLES Defined in Chapter 94, Section 94.01 (E) (a and b).

VITAL COMPONENT PARTS Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels as defined in M.S. Chapter 168B.011, Subd. 14, as it may be amended from time to time.

90.02 Abandoning Vehicle Unlawful

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of the property. For the purpose of this section, a **MOTOR VEHICLE** is as defined in M.S. Chapter 169.01, Subd. 3, as it may be amended from time to time.[48]

90.03 Impoundment; Disposal

90.03.A Custody

The city may take into custody and impound any abandoned motor vehicle.

90.03.B Custody

Custody. The city may take into custody and impound any unlicensed, unregistered, or inoperable motor vehicle after proper notice according to Chapter 94, Sec. 94.01 (E)(3)(b).

90.03.C Disposal

The city will dispose of impounded vehicles in the manner indicated in SEC. 90.04 through SEC. 90.07 of this chapter.

[48] Penalty, see SEC. 10.99

90.04 Notice of Impoundment

90.04.A

When the city has impounded a motor vehicle under SEC. 90.03 of this chapter, the city shall give notice of the taking within five days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned, unlicensed, unregistered, or inoperable motor vehicle, if the information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under SEC. 90.05 of this chapter, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to SEC. 90.06 of this chapter.

90.04.B

The notice shall be sent by mail to the registered owner and property owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record.

90.05 Right to Reclaim

90.05.A

The owner or any lien holder after providing proof of ownership, title, insurance and current license tabs of an abandoned motor vehicle, other than an unauthorized vehicle as defined in M.S. Chapter 168B.011, Subd. 4, as it may be amended from time to time, shall have a right to reclaim the vehicle from the city upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by this chapter.

90.05.B

The owner or lien holder of any unauthorized motor vehicle, as defined in M.S. Chapter 168B.011, Subd. 4, as it may be amended from time to time, shall have the right to reclaim the vehicle upon payment of all towing and storage charges within 15 days after the date of the initial notice required by this chapter.

90.05.C

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 the lien holder to foreclose. For the purposes of this section **GARAGE KEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

90.06 Public Sale

90.06.A

An abandoned, unlicensed, unregistered, or inoperable motor vehicle and contents taken into custody and not reclaimed under SEC. 90.05 of this chapter shall be sold to the highest bidder at public auction or sale, following notification by mail to owner and any lien holder and one published notice published at least seven days prior to the auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle.

The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

90.06.B

From the proceeds of the sale of an abandoned motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this chapter.

90.07 Disposal of Vehicles Not Sold

90.07.A

Where no bid has been received for an abandoned motor vehicle, the city may dispose of it in accordance with this chapter.

90.07.B Contracts and Disposal

90.07.B.1

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

90.07.B.2

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

90.07.B.3

If the city utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.[49]

[49] **Cross-reference:** City employees who may not purchase excess or unclaimed property, see SEC. 36.04

Chapter 91: Animals

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Cross-reference *Animals in parks, see SEC. 95.29*

ANIMALS AND FOWL

91.01 Definitions

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

ANIMALS 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** shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, the 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** shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, the animals shall include members of the equestrian family (horses and mules), bovine family (cows, bulls and oxen), sheep, poultry (chickens and turkeys), fowl (ducks and geese), swine, goats, bees, and other animals associated with a farm, ranch, or stable.
3) **NON-DOMESTIC ANIMALS** shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, the 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 and 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 relative of the rodent family, including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.
   e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
   f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears and deer.
4) **SERVICE ANIMAL** shall mean any animal trained to assist a person with a disability.

91.02 Keeping or Harboring Animals[50]

It is unlawful for any person to keep or harbor any animal, other than a domestic animal or a service animal as defined in this chapter, not in transit, except:

A) Farm animals kept in that portion of the city zoned for agricultural purposes or animals that have been kept continuously by right of prior land use;

[50] Penalty, see SEC. 10.99

B) Animals kept as part of a show licensed under the city code;

C) Animals used in a parade for which a permit has been issued;

D) Animals kept in a laboratory for scientific or experimental purposes; or

E) Animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

91.03 Transporting Animals[51]

It is unlawful for any person to transport animals unless they are:

A) Confined within a vehicle, cage or other means of conveyance;

B) Farm animals being transported in a portion of the city zoned for agricultural purposes; or

C) Restrained by means of bridles, halters, ropes or other means of individual restraint, or in the case of companion animals or service animals under the immediate control of the animal owner or designee.

91.04 Cruel Treatment; Inadequate Housing; Doghouses

91.04.A

It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.

91.04.B

It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

91.04.C

The provisions of M.S. Chapter 343, Cruelty to Animals, as it may be amended from time to time, are adopted relating to doghouses and incorporated herein.[52]

91.05 Trespass

It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission therefor from the owner.[53]

91.06 Dangerous Animals

91.06.A Attack by an Animal

It shall be unlawful for any persons animal to inflict or attempt to inflict bodily injury on any person or other animal. The provisions of SEC. 91.06 shall not apply to a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder.

[51] Penalty, see SEC. 10.99
[52] Penalty, see SEC. 10.99
[53] Penalty, see SEC. 10.99

91.06.B Destruction of Dangerous Animal

The Chief of Police or his designee shall have the authority to order the destruction of a dangerous animal in accordance with the terms established by SEC. 91.06.

91.06.C Definitions

For the purpose of SEC. 91.06 (dangerous animals) through 91.16 (regulation of licensing of dogs and cats), the following definitions shall apply.

DANGEROUS ANIMAL An animal which has:

a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

b) Killed a domestic animal without provocation while off the owners property;

c) Bitten one or more persons or animals on two or more occasions; or

d) Been found to be potentially dangerous and/or the owner has notice of the same, the animal aggressively bites, attacks, or endangers the safety of humans or animals.

POTENTIALLY DANGEROUS ANIMAL An animal which has:

a) When unprovoked, inflicts bites on a human or domestic animal on public or private property;

b) When unprovoked, chases or approaches a person upon public or private property; or has engaged in unprovoked conduct threatening the safety of humans or domestic animals.

PROPER ENCLOSURE Securely confined indoors or in a securely locked pen or suitable structure 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 doors 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 suitable structure 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 1 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 suitable structure 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.

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 suitable structure.

UNPROVOKED The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

OWNER Owner means any person, firm, corporation, organization, or department possessing, harboring, keeping, feeding, boarding, having an interest in, or having care, custody, regulation or control of an animal.

ANIMAL POUND The location designated by the city administrative authority for the purpose of impounding and caring for animals held under the authority of this section.

MUZZLE or MUZZLED The muzzle must be made in a manner which will not cause injury to the animal or interfere with its vision or respiration, but must prevent it from biting any person or animal.

91.06.D Designation as Potentially Dangerous Animal

The Chief of Police or designee shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, engaged in conduct set forth in SEC. 91.06 (C)(2). When an animal is declared potentially dangerous, the Chief of Police or designee shall cause the owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

91.06.E Evidence Justifying Designation

The Chief of Police or designee shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

1) When the animal has exhibited any of the behavior outlined in SEC. 91.06 (C)(1).

91.06.F Authority to Order Destruction

The Chief of Police or designee, upon finding that an animal is dangerous, is authorized to order, as part of disposition, that the animal be destroyed based upon a finding that an animal is dangerous as defined by SEC. 91.06 (C)(1).

91.06.G Procedure

The Chief of Police or designee, after having determined that an animal is dangerous, may proceed in the following manner: The Chief of Police or designee 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 the basis for the designation of the animal as dangerous in accordance with SEC. 91.06 (C)(1), and shall be given ten (10) days to appeal this order by requesting a hearing before a hearing officer.

91.06.G.1

If an owner requests in writing, directed to the Chief of Police or designee, and posts a bond of $200.00, a hearing for determination as to the dangerous nature of the animal shall be conducted. The hearing shall be held before a hearing officer who shall set a date for a hearing not more than ten (10) days after demand for the hearing. The records of the Police Department shall be admissible for consideration by the hearing officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the hearing officer shall make an order as he or she deems proper. The hearing officer may order that the Chief of Police or designee 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 Chief of Police or designee.

91.06.G.2

No person shall harbor an animal after it has been found by a hearing officer to be dangerous.

91.06.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.

91.06.I Notification of New Address

The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Chief of Police or designee in writing if the animal is to be relocated from its current address or given, transferred, or sold to another person. The notification shall be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification shall include the current owners name and address, the relocation address, the transfer address and the name of the new owner or custodian, if any.

91.07 Dangerous Animal Requirements

91.07.A Requirements

If the Chief of Police or designee does not order the destruction of an animal that has been declared dangerous, the owner shall, within fourteen (14) days after mailing of the notice that the animal has been declared dangerous, complete all of the following:

1) The owner shall provide and maintain a proper enclosure for the dangerous animal as specified in SEC. 91.06 (C)(3);

2) 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, as specified in M.S. §347.51, as may be amended from time to time;

3) Provide as your proof annually of public liability insurance in the minimum amount of $100,000.00;

4) If the animal is outside the proper enclosure, the animal must be muzzled 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 made in a manner as defined by this section.

5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. §347.51, as it may be amended from time to time, and shall have a microchip implanted as provided by M.S. §347.151, as it may be amended from time to time.

6) All animals deemed dangerous by the Chief of Police or designee or hearing officer shall be registered with the city within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the Chief of Police or designee.

7) If the animal is a dog, the dog must be licensed and current on rabies vaccination. If the animal is a cat or ferret, it must be current on rabies vaccination.

91.08 Nuisances

91.08.A Definitions

91.08.A.1

For purposes of this Section, an animal shall be declared a public nuisance when the animal is the subject of three or more, in any combination, of the following ordinances of the Crookston City Code:

a) A violation of Section 91.18.

b) A violation of Section 91.19 (A).

c) A violation of Section 91.19 (D)(6).

d) A designation of the animal as a potentially dangerous animal or dangerous animal as defined by Section 91.06, Subd. (C)(1) or (C)(2).

91.08.A.2

For purposes of Section 91.08 (A), a violation is defined as:

a) A plea of, or adjudication of guilt to a citation; or,

b) The payment of a City Administrative fine.

91.08.B Procedure

91.08.B.1

The Chief of Police or designee, after having determined that an animal is a nuisance as defined by this Section, may proceed in the following manner: the Chief of Police or designee shall serve upon the owner or keeper of the animal notice of the determination by registered mail or by personal service. The Chief of Police or designee may further order the animal seized or make orders as deemed proper. This owner shall be notified as to the basis for the designation of the animal as a nuisance in accordance with Section 91.08 and shall be given ten (10) days to appeal this order by requesting a hearing before a hearing officer.

91.08.B.2

An owner or keeper of an animal determined to be a nuisance can challenge the determination by requesting a hearing before a hearing officer. A hearing must be requested by submitting a written demand for hearing to the Chief of Police or designee and cash and/or a bond in the amount of $200.00. The $200.00 cash or bond will be held by the Chief of Police or designee to secure payment of the costs which the owner or keeper of the animal is responsible for, including the costs of impoundment and destruction of the animal. The hearing shall be held on a date determined by the hearing officer but in no event shall the hearing be held more than ten (10) days after receipt of the written demand for hearing and bond is received by the Chief of Police or designee. The record of the Police Department shall be admissible for consideration by the hearing officer without further foundation. After considering all evidence, the hearing officer shall make an order as he or she deems proper. The hearing officer may order that the Chief of Police or designee take the animal into custody if the animal is not currently in custody. if the animal is ordered to be disposed of as defined by this Section, and the owner chooses destruction, the owner shall immediately make the animal available to the Chief of Police or designee. if the animal is ordered to be disposed of and the owner chooses to have the animal permanently removed from the City, the owner shall do so within five (5) days of the date of the hearing officer's order, and the owner shall provide to the Chief or Police or designee a written and notarized statement regarding steps taken to permanently remove the animal from the City.

91.08.C Abatement

An animal found to be a nuisance under this Section shall be abated by the owner or keeper of such animal by the disposition of the animal within ten (10) days after receipt of notice to the owner or keeper thereof. "Disposition shall mean the destruction of the animal or its permanent removal from the City. Once an owner or keeper has received notice that the animal has been found to be a nuisance, if the owner or keeper of the animal fails to dispose of the animal as provided above, the Citys designated animal control authority is authorized and directed to capture and immediately dispose of the animal. The owner or keeper of the animal shall immediately make the animal available to the Citys designated animal control authority.

91.08.D Keeping or Harboring Animals

It shall be unlawful for any person to harbor an animal within the City after it has been determined to be a nuisance and the applicable time periods for appeal and disposition have expired.

REGULATION AND LICENSING OF DOGS AND CATS

91.15 Definitions

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

ANIMAL POUND The location designated by the city administrative authority for the purpose of impounding and caring for animals held under the authority of this section.

MUZZLE or MUZZLED A device or the securing of a dogs jaws by a device constructed of strong, soft material or a metal muzzle such as that used commercially with greyhounds; the muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

OWNER A person who owns, harbors, feeds, boards or keeps an animal hereby regulated.

UNCONFINED Not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner; the pen or structure must have secure sides and a secure top and if the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

91.16 License Required; Application, Fee and Tag

91.16.A License Required

It is unlawful for the owner of any dog or cat, six months of age or more, to fail to obtain a license therefor from the city.

91.16.B Application

Application for a dog or cat license shall be upon a form supplied by the city and accompanied by a certificate of a veterinarian, duly licensed to practice veterinary medicine within the State of Minnesota, which certificate shall state that the dog or cat for which application for a license is made, has been inoculated against rabies for at least the period for which the license is applied.

91.16.C Period and Fee

All dog and cat licenses shall expire on December 31 of each year. License fees shall be established by the Council by resolution, which may in the same manner be amended from time to time, and uniformly enforced.

91.16.D Tag Required

All licensed dogs and cats shall wear a collar and have a tag firmly affixed thereto evidencing the license for the current year. A duplicate for a lost tag may be issued by the city upon presentation of the receipt showing the payment of the license fee for the current year. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the city or death of the dog or cat before the expiration of the license.[54]

91.17 Maximum Number of Animals Permitted

The number of licensed dogs and cats permitted per dwelling unit shall not exceed three animals exceeding three months of age, which number shall consist of no more than two dogs and one cat or two cats and one dog. Any existing dwelling unit which becomes nonconforming on the effective date of this subchapter shall not have the number of permitted dogs and cats enlarged, but may continue with the existing dogs and cats until the expiration of the lives of those excess dogs and cats.[55]

91.18 Running at Large Prohibited

It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. 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.[56]

91.19 Unlawful Acts

91.19.A

It is unlawful for any owner to suffer or permit any dog or cat to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.

[54] Penalty, see SEC. 10.99
[55] Penalty, see SEC. 10.99
[56] Penalty, see SEC. 10.99

91.19.B

It is unlawful for any owner to suffer or permit any dog or cat to be upon public property or the private property of another, unless the dog or cat is in the custody of a person of suitable age and discretion having in his or her possession equipment and supplies for excrement removal.

91.19.C

The provisions of this section do not apply to a guide dog accompanying a blind person, a service dog accompanying a disabled person or a dog while engaged in police or rescue activity.

91.19.D

It is unlawful for the owner of any dog or cat to[57]:

1) Fail to have the animal currently immunized for rabies;

2) Fail to have the license tag issued by the city firmly attached to a collar worn at all times by the licensed animal;

3) Interfere with any police officer, or other city employee, in the performance of his or her duty to enforce this section;

4) Abandon any animal in the city;

5) Fail to provide the animal with sufficient good and wholesome food and water, proper shelter and protection from the elements, veterinary care when needed to prevent suffering, and humane care and treatment; or

6) Fail to keep his or her dog from barking, howling or whining.

91.20 Animal Bites; Quarantine

91.20.A Reporting

91.20.A.1 Animal Owner

When any person owning a dog or cat has been notified by any person injured or by someone in his or her behalf, or by someone with knowledge of the injury, that the person has been bitten or attacked by the animal, or when any person owning a dog or cat has been notified by any person that the animal has been bitten by a rabid animal, the owner shall immediately report his or her name and address, the nature of any attack, so far as is known, and the circumstances of the animal to the Police Department.

91.20.A.2 All Persons

Anyone having knowledge or reason to believe that any dog or cat in the city has bitten a person shall immediately report, so far as is known, the name and address of the owner and circumstances of the animal.

[57] Penalty, see SEC. 10.99

91.20.B Control/Quarantine

91.20.B.1

Whenever any dog or cat has bitten a person, it shall be confined in the animal pound for a period of ten days under the care and observation of a licensed veterinarian with the expense thereof borne by the owner of the dog or cat. This confinement may be waived by the Police Department under the following conditions:

a) The attack was not excessively violent in nature and that the injuries inflicted do not meet the definition of substantial bodily harm as set out in M.S. Chapter 609.02, Subd. 7a, as it may be amended from time to time;

b) The animal owner can provide proof that the animal is current on all applicable immunizations;

c) The Police Department can reasonably determine that the animal will be confined by the owner for the required 10-day period, and that the animal will be accessible to the Police Department during that period;

d) The animal owner agrees to have the animal examined, at the owners expense, by a licensed veterinarian at the conclusion of the ten-day confinement; and

e) The victim does not request impoundment.

91.20.B.2 I

t shall be lawful for the Chief of Police, or an agent of the Chief of Police, to destroy in a humane manner any dog or cat that has been determined to have rabies. If at the end of the ten-day period, a licensed veterinarian is convinced that the dog or cat is then free from rabies, the dog or cat may be released from the pound, provided the provisions of SEC. 91.21 are met.

91.21 Impoundment; Notice and Release Procedures

91.21.A Impoundment

Any dangerous dog, as defined in SEC. 91.06, any dog or cat found in the city without a tag, any dog or cat running at large, or any dog or cat found to be or to be kept in violation of this chapter, may be captured and impounded.

91.21.B Notice of Impounding

Upon the impounding of any dog or cat, except under M.S. §343.22 or §343.29 (Investigation of Cruelty Complaints) or M.S. §343.29 (Exposure of Animals), as these sections may be amended from time to time, reasonable effort will be made to identify and notify the owner of the animal as to the time and place of the taking and the reason for impoundment.

91.21.C Animal Pound Records

An accurate record of the time of the placement of the dog or cat in the animal pound shall be kept on each animal. Every dog or cat so placed in the animal pound shall be held for redemption by the owner for a period of not less than five regular business days. In the case of a dog or cat quarantined because it has bitten a person, the five-day period shall begin after the termination of the quarantine. A **REGULAR BUSINESS DAY** is one during which the pound is open for business to the public for at least four hours between 8:00 a.m. and 7:00 p.m. Impoundment records shall be preserved for a minimum of six months and shall show the description of the animal by specie, breed, sex, approximate

age, and other distinguishing traits; the location at which the animal was seized; the date of seizure; the name and address of the person from whom any animal three months of age or over was received; and, the name and address of the person to whom any animal three months of age or over was transferred.

91.21.D Release from Animal Pound

Dogs and cats shall be released to their owners, as follows:

1) If the dog or cat is owned by a resident of the city, after purchase of a license as aforesaid, and payment of the impounding fee for the period for which the dog or cat was impounded and all expenses of observation or treatment.

2) If the dog or cat is owned by a person not a resident of the city, after immunization of any the dog or cat for rabies, and payment of the impounding fee for the period for which the dog or cat was impounded and all expenses of observation or treatment.

3) All impounding fees shall be established, and may be amended, by resolution of the Council.

4) A dangerous dog shall not be released to its owner but shall be destroyed as provided in this section.

91.21.E Exceptions

91.21.E.1

Any dog or other animal seized under M.S. §343.22 or §343.29, as it may be amended from time to time, shall be held for ten regular business days. For the purposes of this section, the term **REGULAR BUSINESS DAY** shall have the meaning as stated in division (C) of this section. A person claiming an interest in an animal in custody under this section may prevent disposition of the animal by posting security in an amount sufficient to provide for the animals actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.

91.21.E.2

Any dog or other animal seized as dangerous as defined in this chapter shall be held for ten regular business days as set out in division (C) of this section. In the case of a dog or other animal quarantined because it has bitten a person, the ten-day period shall be concurrent with the period of the quarantine. A person claiming an interest in an animal in custody under this section, or a person contesting the determination of the animal as dangerous, may prevent disposition of the animal by posting security in an amount sufficient to provide for the animals actual costs of care and keeping, and costs associated with the destruction of the animal should the determination that the animal be destroyed be upheld. This security must be posted within ten days of the seizure inclusive of the date of the seizure.

91.21.F Notice of Impounding under State Law

Upon impounding an animal under division (E) above, notice shall be given the owner or person claiming interest in the animal by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

1) A description of the animal seized, the authority and purpose for the seizure, the time, place, and circumstances under which the animal was seized, and the location, address, telephone number, and contact person where the animal is kept;

2) A statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal.

3) A statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

4) A form or specific instructions that can be used by a person claiming an interest in the animal for requesting a hearing under this section.

91.21.G Right to Hearing and Release from Animal Pound

Upon request of a person claiming interest in the animal, which request must be made within ten days of the date of seizure, a hearing shall be held within five business days of the request to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under M.S. §343.22, as it may be amended from time to time, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under M.S. §343.29, as it may be amended from time to time, the city may either authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or use the services of a hearing officer to conduct the hearing. If the seizure was done under the dangerous animal provisions of this chapter, the city shall use the services of a hearing officer to conduct the hearing. A person claiming interest in the animal who is aggrieved by a decision of a hearing officer under this section may seek a court order governing the seizure or impoundment within five days of the notice of the order.

91.21.G.1

The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

a) The animal is physically fit;

b) The person claiming an interest in the animal can and will provide the care required by law for the animal; and

c) If the animal is determined dangerous and the person claiming interest in the animal consents to abide by the provisions of M.S. §347.50 through §347.56, as amended from time to time, regarding the registration and keeping of dangerous dogs.

91.21.G.2

The person claiming an interest in the animal is liable for all actual costs of the care, keeping, and disposal of the animal, except if a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the city and the person claiming an interest in the animal before return of the animal to the person.

91.21.H Personal Liability

The owner of a dog or cat which is impounded under this section is personally liable for the impounding fees and expenses of observation, disposal or treatment associated with the animals impoundment. If the owner fails to properly claim the dog or cat or the animal, if found to have rabies or to be a dangerous dog representing a continuing threat of severe injury to human beings, is destroyed, the city

may prepare a bill for the fees and expenses and mail it to the owner and the amount thereof shall then be due and payable to the city.

91.21.I Unclaimed Dogs and Cats

If an impounded dog or cat is unclaimed, the animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of M.S. §35.71, as it may be amended from time to time. Provided, however, that if a tag affixed to the animal, or a statement by the animals owner after seizure specifies that the animal should not be used for research, the animal shall not be made available to any institution but be destroyed after the expiration of the five-day period.

Chapter 92: Fair Housing

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92.01 Declaration of Fair Housing Policy

Discrimination with regard to housing on the basis of race, sex, creed, religion, marital status, and disability adversely affects the health, welfare, peace, and safety of the community. Persons subject to the discrimination suffer depressed living conditions, and create conditions which endanger the public peace and order. The public policy of the city is declared to be to foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color, national origin, marital status, disability status, sex and strictly in accord with their individual merits as human beings. It is also the policy of the city to protect all persons from all unfounded charges of discrimination.

92.02 Definitions

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

DISABILITY A mental or physical condition which constitutes a handicap. Nothing in this section shall be construed to prohibit any program, service, facility or privilege afforded to a person with a disability which is intended to habitate, rehabilitate or accommodate that person.

DISCRIMINATE or DISCRIMINATION Includes segregate or separate.

MARITAL STATUS The standing, state or condition of one as single or married person.

92.03 Prohibited Acts in Regard to Housing

Prohibited Acts in Regard to Housing It is an unlawful discriminatory practice and unlawful:

A) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age or disability, in the sale, lease, or rental of any housing unit or units.

B) For any broker, salesperson or other person acting in behalf of another to so discriminate in the sale, lease, or rental of any housing unit or units belonging to the other person.

C) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide the financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability of the applicant or because of the location of the unit or units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability; or to discriminate by treating differently any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state or local governmental units or agencies, however structured or authorized to upgrade or improve in any manner a specific urban area shall not be deemed to be a violation of this section.

D) For any person, having sold, leased, or rented a housing unit or units to any person, to discriminate with respect to facilities, services, or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age or disability, marital status or status with regard to public assistance.

E) For any person to make or publish any statement evidencing an intent to discriminate, on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age or disability, in the sale, lease, or rental of a housing unit or units.

F) For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability, or to keep any record or use any form of application, designed to elicit the information, in connection with the sale, lease, rental, or financing of a housing unit or units.

G) For any person, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

1) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood, or area in which the property is located, in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability of those living there; or

2) To represent that this change will or may result in the lowering of property values, an increase in crime, or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area concerned.

H) Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons regardless of any disability in a written lease, rental agreement, or contract or purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement or contract.

I) The provisions of this section shall not apply to:

1) The rental of a portion of a dwelling containing accommodations for two families, one of which is occupied by the owner; or

2) The rental by an owner or occupier of a one-family accommodation in which he or she resides of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement or contract.

92.04 Enforcement Procedures

The city is designated as the enforcement agency for this chapter and shall have the power to receive, hear and determine complaints as provided herein. The proper official shall investigate any complaint delivered to the city. The city shall promptly investigate, upon complaint or upon its own motion, any violations of this section. If after investigation, it shall have reason to believe a violation has occurred it may refer the matter to the City Attorney for criminal prosecution, initiate civil enforcement procedures as herein provided, or enter into a settlement agreement which, when approved by the city shall have the same force as a city order.

92.05 Statute of Limitations

No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the city within 180 days from the occurrence of the practice.

92.06 Civil Enforcement Procedure

Civil enforcement procedures shall be prosecuted by the city before the Council in the following manner:

A) The city shall serve upon respondent by certified mail a complaint, signed by it, which shall set forth a clear and concise statement of the facts constituting the violation, set a time and place for hearing, and advise the respondent of his or her right to file an answer to appear in person or by an attorney and to examine and cross-examine witnesses.

B) The hearing shall not be less than 20 days after service of the complaint. At any time prior to the hearing the respondent may file an answer. Facts not denied by answer shall be deemed admitted. If the answer sets out new matter, it shall be deemed denied by the city.

C) The complaint or answer may be amended at any given time prior to the hearing with the consent of the opposing party.

D) Hearings shall be before the Council.

E) The city may obtain subpoenas from the district court to compel the attendance of witnesses and the production of documents at any hearing.

F) If, after hearing, the panel shall conclude that a violation has occurred, it shall prepare an order which may contain any provision deemed desirable to do justice to the complainant or to prevent further violations. It may include provisions which require the respondent to rent, sell, or lease particular housing to the complainant or to do any other thing as may be just. The panels findings of fact and order shall be served on the respondent and each member of the Council by mail shall become the findings and order of the city unless, within ten days after mailing of the findings and order, the city shall revoke or amend the order, but any order of a panel may be modified by the city at any time.

Chapter 93: Fire Prevention

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Cross-reference:
Fire Department established, see SEC. 32.030
Fireworks not permitted in city parks, see SEC. 95.27
Display, Sale Storage, Possession and Use of Fireworks, see Chapter 120

INTERNATIONAL FIRE CODE

93.01 Adoption of Minnesota State Fire Code

The Minnesota State Fire Code, one copy of which has been marked as the official copy and which is on file in the office of the Fire Chief, is hereby adopted as the fire code for the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Every provision contained in the code, except as modified or amended by this section, is hereby adopted and made a part of this section as if fully set forth herein.

93.02 Enforcement

93.02.A

The Chief of the Fire Department, or representative authorized by him or her, is authorized to enforce the provisions of this chapter.

93.02.B T

he Chief of the Fire Department may detail the members of the Fire Department as inspectors as shall from time to time be necessary. The Chief of the Fire Department may recommend the employment of technical inspectors.

93.03 Definitions

93.03.A

Wherever the term CORPORATION COUNSEL is used in the Minnesota State Fire Code, it shall be held to mean the attorney for the city.

93.03.B W

herever the word JURISDICTION is used in the Minnesota State Fire Code, it shall be held to mean the city.

93.04 Districts in which Certain Substances Prohibited

93.04.A Establishment of Limits of Districts in which Storage of Flammable or Combustible Liquids in Outside Tanks is to be Prohibited

93.04.A.1

The limits referred to in the Minnesota State Fire Code in which storage of flammable or combustible liquids in outside tanks is prohibited, are hereby established as follows: Except for outside aboveground storage of Class 1B liquids in the I-1 or I-2 Zoning Districts pursuant to conditional use permit, outside aboveground storage of Class 1 liquids is prohibited within the city limits. Outside underground storage of Class 1 liquids is prohibited in the R-1, R-2, and R-3 Zoning Districts.

93.04.A.2 T

he limits referred to in the Minnesota State Fire Code in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows: The limits shall be within the city limits.

93.04.B Establishment of Limits in which Bulk Storage of Liquified Petroleum Gases is to be Restricted

The limits referred to in the Minnesota State Fire Code in which bulk storage of liquified petroleum gas is restricted, are hereby established as follows: The limits shall be within the city limits.

93.04.C Establishment of Limits of Districts in which Storage of Explosives and Blasting Agents is to be Prohibited

The limits referred to in the Minnesota State Fire Code in which storage of explosives and blasting agents is prohibited, are hereby established as follows: The limits shall be within the city limits.

93.04.D New Materials, Processes or Occupancies which may Require Permits

The City Administrator, the Building Inspector/Official and the Fire Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in said Code. The Fire Chief shall post the list in a conspicuous place in his or her office, and distribute copies thereof to interested persons.

FIRE PREVENTION REGULATION

93.15 Permit Required for Installation of Tank

93.15.A Definition

As used in this section, the term **TANKS** means any above-ground or underground container used, or to be used, for the storage of flammable or non-flammable matter, except containers regulated by an agency of this state and for which a permit has been issued by the agency.

93.15.B Permit Required

It is unlawful for the owner of any premises to install, or permit the installation, thereon without a permit therefor from the city.[58]

93.16 Storage of Wood

93.16.A Definition

WOOD shall include, but not be limited to, firewood and lumber, whether rough, pre-cut, construction grade or finished, which is stored or kept on property in the city.

[58] Penalty, see SEC. 10.99

93.16.B Persons Exempt

This section shall not apply to:

1) Persons having property upon which new construction is taking place and the wood on the property is being used for said construction, unless the wood has remained on the property for more than six months and is not a permanent part of the new construction at the end of that time;

2) Persons storing or keeping wood on property, when the wood is stored or kept in neat and secured stacks in a covered structure impervious to the elements; and

3) Commercial construction businesses, including, but not necessarily limited to, lumberyards, when operating on property other than residential property.

93.16.C Conditions of Outside Storage

Wood stored or kept in the city which is not contained within a covered enclosure impervious to the elements shall be stored or kept in neat and secure stacks in accordance with this section. Stacks shall not exceed four feet in height. Stacks shall be no less than five feet from any side property line on corner lots, 30 feet from any front property line or any front of a house, whichever is closer, and two feet from any rear property line or any side property line of interior lots. Grass height around all wood stacks shall be maintained at a maximum height of six inches.

93.16.D Maximum Amount

No more than four cords of wood shall be stored on any residential property.

93.16.E Existing Wood Piles

Any woodpile in existence on the effective date of this section which does not comply with the provisions of this section shall be removed or placed in compliance.[59]

[59] Penalty, see SEC. 10.99

Chapter 94:
Health and Safety; Nuisances

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GENERAL PROVISIONS

94.01 Assessable Current Services

94.01.A Definition

CURRENT SERVICE as used in this section, means one or more of the following:

1) Remove snow, ice, dirt, and refuse from sidewalks;
2) Eliminate weeds and cut grass on private property and on non-traveled portions of abutting streets;
3) Remove or eliminate public health or safety hazards from private property;
4) Repair abutting sidewalks;
5) Street sprinkling, street flushing, light street oiling, or other dust treatment of streets;
6) Trimming and care of trees and removal of unsound trees from public streets or private property;
7) The operation of a street lighting system;
8) Remove and dispose of or eliminate junk from private property; and
9) Fees of Rental Certification Program; including late fees, re-inspection fees and re-scheduling fees.

94.01.B Responsibility of Owner or Occupant

It is unlawful for the owner or occupant of private property to fail to and it is the primary responsibility of all owners and occupants of private property to:

1) Remove snow, ice, dirt, and refuse from adjacent sidewalks;
2) Eliminate weeds and cut grass thereon and non-traveled portions of abutting streets;
3) Remove or eliminate junk or public health and safety hazards therefrom;
4) Repair abutting sidewalks; and
5) Removal and storage of junk vehicles.

94.01.C Ice, Snow, Dirt and Refuse on Sidewalks

All ice and snow within 48 hours after it ceases to be deposited thereon, and all dirt and refuse deposited thereon, shall be removed by the owner or occupant of abutting private property. If ice, snow, dirt or refuse is not so removed the city may do so and keep a record of the cost attributable to each property.

94.01.D Weeds and Grass

The city shall mail notice to affected property owners to cut and remove all weeds whether noxious or not, and cut all grass, on private property having attained a height of six inches, and on non-traveled portions of abutting streets, within three (3) days after the notice. If weeds are not so cut and removed, or if grass is not so cut, the city may do so and keep a record of the cost attributable to each property. See Section 94.35.

94.01.E Junk and Public Health and Safety Hazards

94.01.E.1 Junk

As used in this section, **JUNK** means and includes:

a) Any unlicensed, unregistered, or inoperable (including, but not limited to the lack of component parts) motor vehicle, motorized vehicle, bicycle, boat, outboard motor, or trailer and all furniture, household furnishings, or appliances, or parts or components thereof, metal, paper, or rags, unless housed within an enclosed garage or storage building;

b) Inoperable (including, but not limited to, the lack of component parts) agricultural implements or parts or components thereof, machines and mechanical equipment of all kinds or parts or components thereof, unless housed within a building or on the premises of a licensed junk dealer and bi-products or waste from manufacturing operations of all kinds;

c) Used lumber or waste resulting from building construction, renovation, remodeling, or demolition; or

d) Felled trees and tree branches that are not immediately processed into lumber, wood for fuel, fence components, or other such ultimate use.

94.01.E.2 Public Health and Safety Hazards

As used in this section, **PUBLIC HEALTH AND SAFETY HAZARDS** means:

a) Organic or inorganic material resulting from the manufacture, preparation, or serving of food or food products, spoiled, decayed, or waste food from any source, bottles, cans, glassware, paper, or paper products, crockery, ashes, rags, and discarded clothing, or human or household waste of all kinds not stored in the manner provided in city code, Chapter 51 for the storage of refuse;

b) Carcasses of animals not buried or destroyed within 24 hours after death; or

c) Any condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public

94.01.E.3 Procedure for Removal or Elimination

94.01.E.3.a Observation, Report, and Investigation Any condition whether or not lawful relating to junk or public health and safety hazard permitted or maintained on private property and reported to the city will be referred to the City Administrator, who will assign the report to the city employee or department he or she deems appropriate for investigation.

94.01.E.3.b Notice-No Emergency Where, in the opinion of the City Administrator, junk or a public health and safety hazard should be removed or eliminated, and no emergency exists, notice of the required removal action will be given to the owner and occupant of the property. The notice will require completion of the removal within ten days.

94.01.E.3.c Notice-Emergency Where, in the opinion of the City Administrator, junk or a public health and safety hazard should be removed or eliminated, and an emergency exists, no notice or such notice of the required removal as is reasonable under the circumstances will be given to the owner and occupant of the property.

94.01.E.3.d Failure of Owner and Occupant to Remove or Eliminate If the owner and occupant do not so remove or eliminate the junk or public health and safety hazard, the city may do so or cause the same to be done and keep a record of the cost thereof.

94.01.F Repair of Sidewalks

94.01.F.1 Notice-No Emergency

Where, in the opinion of the city, no emergency exists, notice of required repair or reconstruction shall be given to the owner and occupant of the abutting property. The notice shall require completion of the work within 90 days.

94.01.F.2 Notice-Emergency

Where, in the opinion of the city, an emergency exists, notice of required repair or reconstruction shall be given to the owner and occupant of the abutting property. The notice shall require completion of the work within ten days.

94.01.F.3 Failure of Owner and Occupant to Repair or Reconstruct

If the owner and occupant do not so repair or reconstruct the sidewalk, the city may do so and keep a record of the cost thereof.

94.01.G Street Sprinkling, Street Flushing, and Tree Care

94.01.G.1

The Council may each year determine what streets shall be sprinkled or flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council may also determine from time to time the streets on which trees (other than diseased trees) shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. The City Administrator shall, under the Councils direction, publish notice that the Council will meet to consider the projects. The notice shall be published in the official newspaper at least once no less than two weeks prior to the meeting of the Council and shall state the date, time, and place of the meeting, the streets affected and the particular projects proposed and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.

94.01.G.2

At the hearing the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall thereupon adopt a resolution confirming the original projects with the modifications as it considers desirable and shall provide for doing the work by day labor or by contract. The city shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street.

94.01.H Street Lighting System

The City Administrator may keep a record of the cost of operation of the street lighting system for the twelve months preceding September 1 of each year and the proportion of the cost properly attributable during that period to each lot and parcel of property abutting on the street in which the system is located.

94.01.I Personal Liability

The owner and occupant of the property on or adjacent to which a current service has been performed are individually and jointly personally liable for the entire cost of the service, including any administrative fees, fines or penalties and any other obligation owed to the city, which relates to the current service. When the service has been completed and the cost, along with any administrative fees, fines

or penalties and any other obligation owed to the city which relate to the service, determined, the city may prepare a bill and mail it to the owner and occupant and the amount will then be due and payable.

94.01.J Assessment

Charges for any current services and for administrative fees, fines or penalties and for any other obligation owed to the city which relate to the current services unpaid after billing, and after notice and hearing, may be certified to the County Auditor and collected as any other special assessments.[60]

94.02 Tree Diseases

94.02.A Trees Constituting Nuisance Declared

The following are public nuisances whenever they may be found within the city:

1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ceratocystis Ulmi (Buisman) Moreau or which harbors any of the elm bark beetles Scolytus Multistriatus (Eichh.) or Hylungopinus Rufipes (Marsh);

2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus Ceratocystis fagacearum;

4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;

5) Any other shade tree with an epidemic disease.

94.02.B Abatement of Nuisance

It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

94.02.C Record of Costs

The Clerk-Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

[60] Penalty, see SEC. 10.99

94.02.D Unpaid Charges

The Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. §429.101, as it may be amended from time, to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.[61]

NUISANCES

94.15 Public Nuisance[62]

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

C) Is guilty of any other act or omission declared by law or SEC. 94.16, 94.17 or 94.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

94.16 Public Nuisances Affecting Health[63]

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.

[61] Penalty, see SEC. 10.99
[62] Penalty, see SEC. 10.99
[63] Penalty, see SEC. 10.99

94.17 Public Nuisances Affecting Morals and Decency[64]

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 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 intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

94.18 Public Nuisances Affecting Peace and Safety

The following are declared to be nuisances affecting public peace and safety:

94.18.A

All snow and ice not removed from public sidewalks 48 hours after the snow or other precipitation causing the condition has ceased to fall;

94.18.B

All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

94.18.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;

94.18.D

94.18.D.1 Prohibited Generally

It shall be unlawful for any person to make or cause to be made any loud, unnecessary or unusual noise which either annoys, disturbs, or affects the comfort, repose, health or peace of others.

94.18.D.2 Prohibited Specifically

The following acts are declared to be loud, disturbing and unnecessary noises in violation of Section 94.18(D)(1), but such enumeration shall not be deemed to be exclusive.

94.18.D.2.a Horns and Signaling Devices The sounding of any horn or signaling device on any automobile, motorcycle or other vehicles, except as a danger Warning.

[64] Penalty, see SEC. 10.99

94.18.D.2.b Radios; Tape and Disk Players The using, operating or permitting to be played of a radio receiving set, tape or disk player, or other machine or device for the producing or reproducing of sound in such manner, considering the time, place and purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person or persons of ordinary sensibilities.

The play, use or operation of any radio, tape or disk player, or other machine or device for the production or reproduction of sound in such a manner which is plainly audible at a distance of 50 feet from such machine or device shall be prima facie evidence of a violation of this section.

When an unlawful sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicles owner is guilty of the violation; provided, however, that if the vehicles owner is not present at the time of violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.

Section 94.18(D)(1) shall not apply to sound produced by the following:

A. Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city, including sporting or other public events as long as this activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.

B. Church bells or chimes.

C. School bells.

D. Machines or devices for the production of sound on or in authorized emergency vehicles.

E. Governmental warning systems.

F. Sounds emanating from the operation of motor vehicles on a public highway; aircraft; outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, and power saws; pile drivers or jackhammers and other construction equipment, except during the hours of 10:00 pm. to 7:00 a.m.; and, sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place.

G. Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work when all reasonable actions are taken to minimize the amount of noise.

94.18.D.2.c Exhaust and Muffler No person shall operate or permit the operation of a motor vehicle upon a street, highway or alley in the City with an engine the exhaust system of which has been altered, modified or repaired, including the use of an engine retarding (Jake Brake) or a muffler or resonant kit, such that the noise emitted by the engines exhaust system is increased to make loud explosive noises or unusual noise which either annoys, disturbs, or affects the comfort, repose, health or peace of others.

94.18.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.

94.18.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.

94.18.G

The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.

94.18.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;

94.18.I

Radio aerials or television antennae erected or maintained in a dangerous manner;

94.18.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;

94.18.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;

94.18.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;

94.18.M

Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

94.18.N

All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

94.18.O

Waste water cast upon or permitted to flow upon streets or other public properties;

94.18.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;

94.18.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;

94.18.R

Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash of other materials;

94.18.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;

94.18.T

The depositing of garbage or refuse on a public right-of-way or on adjacent private property; and

94.18.U

All other conditions or things which are likely to cause injury to the person or property of anyone.[65]

ADMINISTRATIVE OFFENSES, ABATEMENT, AND RECOVERY OF COST

94.19 Administrative Offenses and Abatement Procedure

94.19.A Definitions

1) **ENFORCEMENT OFFICER** shall mean all persons designated as enforcement personnel or acting as inspectors for the City or any other city employee appointed by the City Administrator to enforce the provisions relating to junk, public health and safety hazards, nuisances, and other provisions set forth in chapter 94 of the City Code.

2) **LAST KNOWN ADDRESS** shall mean the address shown on the records of the Polk County Property Information and Taxpayer Services or a more recent address known to the enforcement officer.

[65] Penalty, see SEC. 10.99

3) **OWNER** shall mean the owner or owners of the property on the records of the Polk County Property and Taxpayer Services.

4) **PERSONAL SERVICE** shall mean by personally handing the item to the intended recipient or by leaving the same at the intended recipient's residence or place of business with a person of suitable age and discretion.

5) **RESPONSIBLE PARTY** shall mean any owner of record of the property, occupying tenant or lien holder of record.

6) **SERVICE BY MAIL** shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

94.19.B Duties of Enforcement Officer.

It is the duty of the enforcement officer to enforce the provisions relating to junk, public health and safety hazards, nuisances, and other unlawful conditions set forth in this chapter, including the power to inspect private premises and to issue administrative citations and notices and orders for abatement.

94.19.C Service.

When service of an administrative citation, notice or order is required, any one or more of the following methods of service shall be adequate:

1) Personal service;

2) Service by mail; or

3) If the owner or responsible party cannot be determined after reasonable effort, by posting a copy of the administrative citation, notice or order in a conspicuous place on the property.

94.19.D Administrative Fine.

Any person found in violation of a provision in section 94.01(E), 94.15, 94.16, 94.17 or 94.18 may be charged an administrative fine by the enforcement officer through the issuance and service of an administrative citation. The administrative citation shall include a statement that the administrative fine may be appealed and that a hearing before the City Administrator or designated hearing officer may be obtained by filing a written request with the City Clerk-Treasurer within ten (10) days of service of the administrative citation. It is the intent of the City to impose an administrative fine to defray costs associated with inspection and compliance services. The administrative fine must reflect the costs associated with inspection, notice and order, posting, and/or abatement of unlawful conditions set forth in chapter 94 and shall be set and may, from time-to-time, be amended, by the City Council by resolution. Failure by the owner or responsible party to pay the administrative fine shall be cause for the amount of the fine to be levied against the subject property as a special assessment and collected as in the case of other special assessments.

94.19.E Abatement Procedure.

Unless a different abatement procedure is provided herein or where the context of the City Code indicates a contrary intent, whenever, in the judgement of the enforcement officer, it is determined upon investigation that a public health and safety hazard, public nuisance, or other unlawful condition is being maintained or exists within the City, the following will apply:

94.19.E.1 Notice and Order for Abatement.

The enforcement officer will attempt to notify the owner and, if applicable, the responsible party immediately of the violation by serving a notice and order for abatement. The notice and order for abatement shall include: a description of the subject property sufficient for identification; the provision of the City Code violated; a description and location of the unlawful condition on the subject property and the remedial action required to abate the condition; an abatement deadline, which shall be determined by the enforcement officer and which shall allow for a reasonable amount of time for abatement; a statement that the person may appeal the violation and obtain a hearing before the City Administrator or a designated hearing officer by filing a written request with the City Clerk-Treasurer within ten (10) days of service of the notice and order for abatement; and a statement that, if remedial action is not taken nor a request for a hearing filed with the City Clerk-Treasurer within the time specified, the City will abate the unlawful condition and charge all costs incurred therein against the owner and/or responsible party and if the abatement charges are not reimbursed by the owner or responsible party, the abatement charges will be levied against the subject property as a special assessment to be collected in the same manner as property taxes.

94.19.E.2 Abatement.

If, after service of the notice and order for abatement, the person served fails to abate the unlawful condition or appeal the violation as provided herein, it may be abated under the direction of the enforcement officer. The charges for abatement include the actual costs of abatement. Abatement charges shall be the owner's and the responsible party's joint and several obligation. Failure by the owner or responsible party to reimburse the City for abatement charges shall be cause for the abatement charges to be levied against the subject property as a special assessment and collected as in the case of other special assessments.

94.19.F Appeal and Hearing.

An owner or responsible party may appeal an administrative citation or order for abatement and obtain a hearing in accordance with this section. The hearing must be requested by submitting a written request to the City Clerk-Treasurer within ten (10) days of service of an administrative citation or order for abatement. The hearing shall be held on a date determined by the City Administrator or a hearing officer designated by the City Administrator but in no event shall the hearing be held more than ten (10) days after receipt of the written request for hearing. A notice shall be mailed to the person requesting the hearing stating the date, time, place and subject of the hearing. The hearing shall be conducted by the City Administrator or a designated hearing officer. At the hearing, the owner shall have an opportunity to present evidence and testimony before the hearing officer. The hearing officer may receive evidence and testimony from the enforcement officer and other parties who wish to be heard. After considering all the evidence, the hearing officer shall make an order as he or she deems proper.

94.19.G 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.

94.19.H Criminal and Civil Enforcement.

Action under this section does not preclude any other civil or criminal enforcement procedure.

94.20 Recovery of Cost

94.20.A Personal Liability

The owner or responsible party of the subject property on which a condition relating to junk, a public health and safety hazard, a nuisance, or other unlawful condition set forth in chapter 94 has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the abatement costs determined, the Clerk-Treasurer or other official shall prepare a bill for the abatement costs and mail it to the owner and/or responsible party. Thereupon the amount shall be immediately due and payable at the office of the Clerk-Treasurer.

94.20.B Assessment

If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, condition relating to junk, the growth of weeds on private property or outside the traveled portion of streets, unsound or insect-infected trees, other unlawful condition set forth in chapter 94, or unpaid claims owed to the City for administrative fees or fines and for any other obligation which relate to the regulation, ownership, operation or maintenance of real property within the City, the Clerk-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the 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, or Chapter 7 of the City Charter, 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.

WEEDS

94.35 Weeds and Grass

94.35.A

On or before June 1 of each year, after the effective date of this subdivision and at such other times as ordered by resolution of the City Council, the City Clerk Treasurer shall publish once in the official newspaper a notice directing owners and occupants of property within the City to cut and remove all weeds, whether noxious or not, and all grass outside the traveled portion of any street or alley adjacent to the property having attained a height of six (6) inches and stating that if not so cut and removed, the city may do so at the expense of the owner and occupant and, if not paid, the charge for such work may be made a special assessment against the property concerned. Failure of the City Clerk-Treasurer to properly publish the general notice does not relieve a person from the necessity of full compliance with Chapter 94 Section 94.01 and related provisions. The city shall also mail notice to affected property owners to cut and remove all weeds, whether noxious or not, and cut all grass, on private property and on non-traveled portions of any abutting street or alley, having attained a height of six (6) inches, within three (3) days after such notice. If weeds are not so cut and removed, or if grass is not so cut, the city may do so and keep a record oftbe cost attributable to each property. See Section 94.01(D).

94.35.B

This Subdivision shall not apply to: Natural areas which shall be defined as densely wooded areas, bogs and marshes, as well as undisturbed lands, an area where the land and vegetation appear not to have been graded, landscaped, mowed or otherwise disturbed by human or mechanical means at any time. The weed inspector or assignee shall use reasonable judgment in determining what constitutes this type of area based on the present appearance of the area and research as to the history of the area, if such information is available. Natural areas may also be created as follows:

1) Those individuals who wish to naturalize portions of their property must submit a Landscaping Management Plan for approval. Such Plan will require a review before the Parks and Recreation Department, which will make recommendations to approve or disapprove the Plan to the City Council. The Landscaping Management Plan will require a public hearing.

2) In the event that a notice of a possible violation of this Subdivision has been sent, and the individual wishes to submit a request to naturalize the area that is designated in the notice, the individual may, within the required time frame for correction of the violation, submit a Landscaping Management Plan. The City will take no enforcement action until a final determination has been made on the Plan.

3) Landscaping Management Plan means a written plan relating to the management of the natural area, which contains a plot plan of the area upon which grass and other growth will exceed six (6) inches in height or length, a statement of intent and purpose for the area, a general description of the vegetation types, plant succession involved and specific management techniques to be employed.

4) Notwithstanding the fact that approval has been given for a Landscaping Management Plan, the Fire Chief may order the cutting of such natural area at any time when in the exercise of his/her official duties, he/she determines that the growth has become so hazardous as to cause a danger to the safety of the inhabitants of any residential structure on said property or to the citizens and residents of the neighborhood in which the Landscaping Management Plan has been approved.

94.35.C

Transmission line or utility easements.

94.35.D

Park land.

94.35.E

Storm water/sanitary ponds.

94.35.F

Land used for agricultural purposes.

94.35.G

Compost areas when the compost is in a compost enclosure which is of adequate construction to allow for the decomposition of the material and the compost is screened from view of adjacent property owners.

94.35.H

An area that is steeply sloped as to make mowing or cutting of the vegetation not reasonable or practical for equipment operation or safety.

94.35.I

Non-noxious weeds and grass and herbaceous vegetation within fifty (50) feet of natural or altered creeks, rivers and stream corridors, including riparian buffer strips that convey water.
Notwithstanding any provision of this Subdivision to the contrary, noxious weeds and other vegetation must be eliminated or cut as otherwise required by law or regulation.[66]

OPEN BURNING

94.60 Definitions

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

FIRE CHIEF The Fire Chief 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.

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.

WOOD Dry, clean fuel only such as twigs, branches, limbs, presto logs, charcoal, cord wood or untreated dimensional lumber. The term 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.

RECREATIONAL FIRES A fire set with approved starter fuel no more than 3 feet or less in diameter and a flame height of 2 feet or less 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 SITES An area no more than 3 feet or less in diameter and contained 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 in an area which is depressed below ground, on the ground, or on a raised bed. Included are outdoor wood burning fireplaces. Burning barrels are not a recreation fire site as defined herein.

[66] Penalty, see SEC. 10.99

94.61 Prohibited Activities

94.61.A

No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.

94.61.B

No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

94.61.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.

94.61.D

No person shall conduct, cause or permit open burning of any leaves or grass clippings.

94.61.E

No person shall conduct, cause, permit or maintain a recreational fire site:

1) Three feet or more in diameter and a flame height of two feet or more contained within the border of a recreational fire site;

2) That is not completely surrounded by natural rock, cement, brick, tile, blocks or ferrous metal, which is depressed below ground, on the ground or on a raised bed;

3) In a burn barrel;

4) Closer than 15 feet to any structure; or

5) In excess of one recreational fire site per residence.

94.61.F

No person shall conduct, cause, permit or maintain a recreational fire:

1) Using materials other than dry and clean wood;

2) That is deemed by the Chief of the Fire Department or his/her designee to be hazardous to public safety or property;

3) That is unattended at any time;

4) That produces excessive smoke, odor or soot; or

5) That creates a nuisance.

94.61.G

No person shall conduct, cause, permit or maintain a recreational fire and/or fire site at any time in which a burning ban has been imposed that includes the City of Crookston.[67]

94.62 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.[68]

94.63 Purposes Allowed for Open Burning

94.63.A

Open burn permits may be issued only for the following purposes:

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.
6) Recreation fire for public purpose.

94.64 Permit Application for Open Burning; Permit Fees

94.64.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 for reviewing and processing those applications.

94.64.B

An open burning permit may require the payment of a fee. Permit fees shall be in the amount established by ordinance, and as it may be amended from time to time.[69]

94.65 Permit Process for Open Burning

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief shall schedule 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.

[67] Penalty, see SEC. 10.99
[68] Penalty, see SEC. 10.99
[69] Penalty, see SEC. 10.99

94.66 Permit Holder Responsibility

94.66.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.

94.66.B

The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. 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.

94.66.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.[70]

94.67 Revocation of Open Burning Permit

The open burning permit is subject to revocation at the discretion of DNR forest officer or the Fire Chief. 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.[71]

94.68 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, these officers may deny the application for the open burn permit.

94.69 Burning Ban or Air Quality Alert

No open burning 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.[72]

94.70 Rules and Laws Adopted by Reference

The provisions of M.S. §88.16 to §88.22, as amended from time to time, and the Minnesota State Fire Code, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

[70] Penalty, see SEC. 10.99
[71] Penalty, see SEC. 10.99
[72] Penalty, see SEC. 10.99

Chapter 95:
Parks and Recreation

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PARK REGULATIONS

95.25 Violation

It is unlawful for any person to, in any public park or recreation area, violate any of the following regulations contained in SEC. 95.26 through SEC. 95.35.[73]

95.26 Allowable Hours of Use

Public parks and recreation areas shall not be occupied or used between 10:00 p.m. and 6:00 a.m. of the following day, except the camping area, or except by a special permit issued by the Park Director.[74]

95.27 Weapons, Gambling, Alcoholic Beverages and Indecent Conduct Prohibited

95.27.A

No firearms, air rifles, BB guns, sling shots, explosives or fireworks shall be brought into or used in park areas, unless authorized by the Director of Parks and Recreation.

95.27.B

Gambling, excessive use of alcoholic beverages, or abusive, boisterous, profane, or indecent language, conduct, or attire will not be allowed.[75]

95.28 Advertising, Distribution of Literature Prohibited

95.28.A

No unauthorized advertising, selling, or solicitation is allowed in parks or recreation areas.

95.28.B

Distribution or display of obscene literature is prohibited in all parks and recreation areas.

95.28.C

Placing of advertising, decorations or other devices of any kind on vases, statues, flagpoles, monuments or structures is prohibited.[76]

95.29 Control of Dogs and Pets; Noninterference with Wildlife

Dogs and pets must be kept under control. Wildlife must not be molested, disturbed or injured.[77]

[73] Penalty, see SEC. 10.99
[74] Penalty, see SEC. 10.99
[75] Penalty, see SEC. 10.99
[76] Penalty, see SEC. 10.99
[77] Penalty, see SEC. 10.99

95.30 Games, Picnicking and Fires

95.30.A

Active games must be limited to designated play areas.

95.30.B

Picnicking and fires are allowed in designated areas only. Fires must be attended at all times and extinguished after use.[78]

95.31 Traffic and Parking Regulations

Motorists will observe speed limits and drive on designated roadways only as posted, and park in designated areas.[79]

95.32 Dumping Refuse, Depositing Matter in Ponds, and the Like

95.32.A

Dumping or depositing bottles, broken glass, ashes, paper, boxes, cans or refuse of any kind is prohibited except in the containers provided in the parks.

95.32.B

Discharge in waters of any pond, stream, or any other body of water, of any substance, or liquid, or solid, or any other matter or thing which will result in pollution of the water is prohibited.[80]

95.33 Damaging or Tampering with Park Property

95.33.A

Removal, breaking, destruction, injury, mutilation, or defacement in any way of any structure, monument, statue, vase, fountain, fence, railing, flag pole, vehicle, bench, tree, shrub, fern, plant, flower, fireplace or other property in any park is prohibited.

95.33.B

Climbing of trees or flag poles, sitting or standing upon monuments, vases, fountains, railings or fences in any park or recreation area is prohibited.[81]

95.34 Solicitation for Immoral Purpose

No person shall solicit the acquaintance of another in any park or recreation area for any immoral purposes.[82]

[78] Penalty, see SEC. 10.99
[79] Penalty, see SEC. 10.99
[80] Penalty, see SEC. 10.99
[81] Penalty, see SEC. 10.99
[82] Penalty, see SEC. 10.99

95.35 Permit Required for Exclusive Use

No person or organization shall use a park or park area for group celebrations, meetings, entertainment, and the like, which are considered exclusive use, except through use of a permit issued by the Parks Director.[83]

[83] Penalty, see SEC. 10.99

Chapter 96:
Streets and Sidewalks

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96.01 General Provisions Applicable to this Chapter

96.01.A Definitions

Except as otherwise defined in the city code, or where the context clearly indicates a contrary intent, the words and terms defined in M.S. Chapter 169, as it may be amended from time to time, shall be applicable to this chapter.

96.01.B Application

Except as otherwise provided in this code, the provisions of this chapter are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

96.01.C Scope

Except as otherwise provided in this code, the provisions of this chapter relate exclusively to the streets and alleys in the city, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon the streets and alleys.

96.02 Obstructions in Streets

96.02.A Obstructions

It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of the permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

96.02.B Fires

It is a misdemeanor for any person to build or maintain a fire upon a street.

96.02.C Dumping in Streets

It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this section to haul any material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this section to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the Council.

96.02.D Signs and Other Structures

It is a misdemeanor for any person to place or maintain a sign, advertisement, or other structure in any street without first having obtained a written permit from the city. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon the terms and conditions as may be set forth in the zoning or construction provisions of the city code.

96.02.E Placing Snow or Ice in a Roadway or on a Sidewalk

96.02.E.1

It is a misdemeanor for any person, not acting under a specific contract with the city or without special permission from the city, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.

96.02.E.2

Where permission is granted by the city the person to whom the permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from the street or sidewalk. If not paid, collection shall be by civil action or assessment against the benefitted property as any other special assessment.

96.02.F Continuing Violation

Each day that any person continues in violation of this section shall be a separate offense and punishable as such.

96.02.G Condition

Before granting any permit under any of the provisions of this section, the Council may impose insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding persons and property. The insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of the obstruction.[84]

96.03 Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb and Gutter

96.03.A Methods of Procedure

96.03.A.1

Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this section if advance payment is made therefor or arrangements for payment considered adequate by the city are completed in advance.

96.03.A.2

The city may, with or without petition by the methods set forth in the local improvement code of Minnesota Statutes, presently beginning with M.S. §429.011, as the same may from time to time be amended.

96.03.B Permit Required

It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the city without a permit from the city. Application for the permit shall be made in the form approved by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any improvement ordered installed by the Council. All applications shall be referred by the Building Official to the Public Works

[84] Penalty, see SEC. 96.99

Director and no permit shall be issued until approval has been received from the Public Works Director. All applications shall contain an agreement by the applicant to be bound by this chapter and plans and specifications consistent with the provisions of this chapter and good engineering practices shall also accompany the application. A permit from the city shall not relieve the holder from damages to the person or property of another caused by the work.

96.03.C Specifications and Standards

All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the City Engineer and open to inspection and copying there. The specifications and standards may be amended from time to time by the city, but shall be uniformly enforced.

96.03.D Inspection

The Building Official shall inspect the improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Building Official if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the city to inspect or supervise the work.

96.03.E Insurance Required

No permit shall be issued until the applicant has furnished the city with evidence of public liability insurance in the amount of $100,000 for the injury of one person, $300,000 for any occurrence, and $25,000 for property damage.[85]

96.04 Street Openings or Excavations

It is a misdemeanor for any person, except a city employee acting within the course and scope of his or her employment or a contractor acting within the course and scope of a contract with the city, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the Building Official as herein provided.

96.04.A Application

Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and the other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the Building Official.

96.04.B Investigation and Payment of Estimated Costs

Upon receipt of the application, the Building Official shall cause the investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure and time limitation upon the excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of the investigation shall be included in the estimate.

[85] Penalty, see SEC. 96.99

96.04.C Protection of the City and the Public

96.04.C.1 Non-completion or Abandonment

Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the city may, after six hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

96.04.C.2 Insurance

Prior to commencement of the work described in the application, the applicant shall furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than $100,000 for any person, $300,000 for any occurrence and property damage insurance of not less than $25,000, issued by an insurance company authorized to do business in the State of Minnesota on which the city is named as a co-insured.

96.04.C.3 Indemnification

Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom.

96.04.D Issuance of Permit

The Building Official shall issue the permit after completion of the investigation, determination of all estimated costs as aforesaid; agreement by the applicant to the conditions of time and manner as aforesaid; agreement in writing by the applicant to pay all actual cost of repairs over and above the estimate, and, agreement in writing by the applicant to be bound by all of the provisions of this section. No permit shall be issued until the applicant has paid in full (or, in the alternative, furnished either an irrevocable and unconditional letter of credit drawn on a national bank and approved by the City Attorney or a performance bond approved by the City Attorney) the amount of the Building Officials estimated cost of the work to be performed, together with the investigation, inspection and permit fees as are fixed and determined by resolution of the Council.

96.04.E Repairs

All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the city in a manner prescribed by the City Engineer and an accurate account of costs thereof shall be kept.

96.04.F Cost Adjustment

Within 60 days following completion of the permanent repairs the Clerk-Treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to the permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.

96.04.G Alternate Method of Charging

In lieu of the above provisions relating to cost and cost adjustment for street openings, the city may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

96.04.H Two-year Period

The applicant for the permit to make a street opening or excavation shall be responsible for the proper performance of the work on the right-of-way for a two-year period. The city shall inspect the work performed and determine if the final inspection after the two-year period is acceptable.[86]

96.05 Curb Set-back Regulation

96.05.A Permit Required

It is a misdemeanor for any person to hereafter remove, or cause to be removed, any curb from its position abutting upon the roadway to another position without first making application to the Building Official. In determining whether or not to issue the permit, the Building Official shall consider all relevant factors including, but not necessarily limited to, the effect on public and franchised utilities, the inconvenience, if any, upon abutting property owners, vehicular and pedestrian safety, the number of curb cuts presently on the same parcel or property, and the effect on public parking.

96.05.B Agreement Required

No permit shall be issued until the applicant, and abutting landowner if other than applicant, shall enter into a written agreement with the city agreeing to pay all costs of constructing and maintaining the setback area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove the set-back and reconstruct the area as was at the expense of the landowner, his or her heirs or assigns if the area ever, in the Councils opinion becomes a public hazard. The agreement shall be recorded in the office of the County Recorder, and shall run with the adjoining land.

96.05.C Sign-posting

ANGLE PARKING ONLY signs shall be erected and maintained at the expense of the adjoining landowner in all set-back areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in the set-back areas, as angle parking is herein described and allowed.

96.05.D Public Rights Preserved

The set-back parking areas shall be kept open for public parking and the abutting landowner shall at no time acquire any special interest or control of or in such areas.[87]

96.06 Improvement of Street; Sewer and Water Lateral Installation Required

96.06.A Requirement of Sewer and Water Laterals

No petition for the improvement of a street shall be considered by the Council if the petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all

[86] Penalty, see SEC. 96.99
[87] Penalty, see SEC. 96.99

sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along the street will be served by the utilities installed in the street.

96.06.B Sewer System Service and Water Main Service Laterals

No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

96.06.C Waiver

The Council may waive the requirements of this section only if it finds the effects thereof are burdensome and upon the notice and hearing as the Council may deem necessary or proper.[88]

96.07 Painting or Coloring Street, Sidewalk or Curb and Gutter

It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by city employees acting within the course or scope of their employment. Provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as the coloring may be approved by the city.[89]

96.08 Sidewalk Maintenance and Repair

96.08.A Primary Responsibility

It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain the sidewalk in safe and serviceable condition.

96.08.B Construction, Reconstruction and Repair Specifications

All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the Public Works Director.

96.08.C Notice - No Emergency

Where, in the opinion of the Building Official, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. The notice shall require completion of the work within 90 days, and shall be mailed to the owner or owners shown to be on the records of the County Officer who mails tax statements.

96.08.D Notice - Emergency

Where, in the opinion of the Building Official, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. The notice shall require completion of the work within ten days, and shall be mailed to the owner or owners shown to be on the records of the County Officer who mails tax statements.

[88] Penalty, see SEC. 96.99
[89] Penalty, see SEC. 96.99

96.08.E Failure of Owner to Reconstruct or Make Repairs

If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the Clerk-Treasurer shall report the failure to the Council and the Council may order the work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

96.08.F Duty to Inspect

In order to accomplish the purpose of this section, it shall be the duty of the Building Official to inspect sidewalks within the city, or cause the same to be inspected under his or her direction.[90]

96.09 Ice, Snow, Dirt and Refuse on Sidewalks

Sidewalks shall be kept free of ice, snow, dirt and refuse in accordance with the provisions of city code.[91]

96.10 Haul Fee

96.10.A Policy and Purpose

The city has determined that public works and public improvements which require the transport of a significant amount of material over city streets cause damage to and excessive wear and tear of the streets. It is consistent with the public interest that the costs associated with the use of city streets are paid as a part of the costs of the public works or improvements.

96.10.B Haul Fee

The City Administrator may require contractors, as a part of any contract for a public work or public improvement let by the city either alone or in cooperation with any other governmental entity, a fee, payable to the city, for the use of city streets. The amount of the fee shall be $1 per cubic yard or $0.67 per ton of material (as estimated by the Public Works Director) to be transported upon city streets in connection with the contract.

96.99 Penalty

Every person violates a section, division, or provision of this title when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

A) Where the specific section, division, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, the person shall be punished as for a misdemeanor; where the person stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.

[90] Penalty, see SEC. 96.99
[91] Penalty, see SEC. 96.99

B) As to any violation not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor. 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) As to any violation of a provision adopted by reference, he or she shall be punished as specified in the provision, so adopted.

D) In 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.

Title XI: Business Regulations

Chapter 110:
General Business Licensing

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110.01 Definitions

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

APPLICANT Any person making an application for a license under this title.

APPLICATION A form with blanks or spaces thereon, to be filled in and completed by the applicant as a request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

BOND A corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

BUSINESS Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this title.

LICENSE A document issued by the city to an applicant permitting the applicant to carry on and transact a business.

LICENSEE An applicant who, pursuant to an application, holds a valid, current, unexpired and unrevoked license from the city for carrying on a business.

LICENSE FEE The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

SALE, SELL and SOLD All forms of barter and all manner or means of furnishing merchandise to persons.

110.02 Applications

All applications shall be made as follows:

110.02.A

All applications shall be made at the office of the Clerk-Treasurer upon forms that have been furnished by the city for such purposes.

110.02.B

All applications must be subscribed, sworn to, and include the information as the Council shall deem necessary considering the nature of the business for which license application is made.

110.02.C

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

110.02.D

The Clerk-Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to the extent as he or she deems necessary. For the investigation the Clerk-Treasurer may enlist the aid of the Chief of Police. The Council shall not consider an application before the investigation has been completed.

110.02.E

Applications for renewal licenses may be made in the abbreviated form as the Council may by resolution adopt.[92]

110.03 Grant, Issuance, Transfer, Duplicate License and Renewal

110.03.A Granting

The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this title.

110.03.B Issuing

If an application is approved, the Clerk-Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of one-twelfth for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than $100 a minimum license fee equal to of the annual license fee shall be charged. Except as to licenses which are specifically city-wide, licenses shall be valid only at one location and on the premises therein described.

110.03.C Transfer

A license shall be transferable between persons upon consent of the Council. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (C).

110.03.D Termination

Licenses shall terminate only by expiration or revocation.

110.03.E Refusal and Revocation

The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing.

[92] Penalty, see SEC. 110.99

110.03.F Duplicate License

Duplicates of all original licenses may be issued by the Clerk-Treasurer, without action by the Council, upon licensees affidavit that the original has been lost, and upon payment, to be determined by Clerks Office, for issuance of the duplicate. All duplicate licenses shall be clearly marked **DUPLICATE**.

110.03.G Renewals

Applications for renewal of an existing license shall be made at least 30 days prior to the date of expiration of the license, and shall contain the information as is required by the city. This time requirement may be waived by the Council for good and sufficient cause.

110.04 License Fees

Except as otherwise herein provided, all fees for licenses under this title shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The license fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the Clerk-Treasurer, and open to inspection during regular business hours. For the purpose of fixing the fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any subdivision or categorization shall be included in the resolution authorized by this section.

110.05 Carrying or Posting of License

All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device licensing, the city may provide a sticker for the current license year which shall be affixed to each machine or device requiring the sticker. All licensees shall display their licenses upon demand by any officer or citizen.

110.06 Responsibility of Property Owner

It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this title.[93]

110.07 Responsibility of Licensee

The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under the license, shall be deemed the conduct of the licensee.[94]

110.08 Conditional Licenses

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place the conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

[93] Penalty, see SEC. 110.99
[94] Penalty, see SEC. 110.99

110.09 Insurance Requirements

Whenever insurance is required by a section of this title, after approval by the Council, but before the license shall issue, the applicant shall file with the Clerk-Treasurer a policy or certificate of public liability insurance showing that the limits are at least as high as required, that coverage is effective for at least the license term approved, and that the insurance will not be cancelled or terminated without 30 days written notice served upon the Clerk-Treasurer. Cancellation or termination of the coverage shall be grounds for license revocation.

110.10 Authority of Council as to Denial, Rates and Hearing

110.10.A Right to Deny

The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this title where the business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of the business in making the determination. Provided, however, that before making the determination, the Council shall hold a public hearing thereon pursuant to the notice to interested parties and the public as it may deem necessary or proper in action calling for the hearing.

110.10.B Rates

Where, under specific provisions of this title, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, the rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

110.10.C Hearing

Any applicant or licensee under this title who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of the hearing shall be given to the persons and by the means as the Council may determine in calling the hearing.

110.99 Penalty

Every person violates a section, subdivision, paragraph or provision of this title when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both. The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Chapter 111: Alcoholic Beverages

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GENERAL PROVISIONS

111.01 Definitions

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

ALCOHOLIC BEVERAGE Any beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine, and liquor as defined in this section.

APPLICANT Any person making an application for a license under this chapter.

APPLICATION A form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

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

BREWER A person who manufactures beer for sale.

CHURCH A building which is primarily used as a place where persons of the same faith regularly assemble for the public worship of God.

CLUB An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans organization, which has more than 50 members; has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. The club or congressionally chartered veterans organization must have been in existence for at least three years.

COMMISSIONER The Minnesota Commissioner of Public Safety.

EXCLUSIVE LIQUOR STORE An establishment used exclusively for the sale of liquor except for the incidental sale of ice, tobacco, beer, beverages for mixing with liquor, soft drinks, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food, and the establishment may offer recorded or live entertainment. **EXCLUSIVE LIQUOR STORE** also includes an on-sale or combination on-sale and off-sale liquor establishment which sells food for on-premise consumption when authorized by the city.

FULL MENU At least two meals, consisting of a luncheon and a dinner, during the hours of wine and liquor sales on at last five days each calendar week, exclusive of Sundays; the luncheon must consist of at least four items served for at least two hours between 11:00 a.m. and 2:00 p.m. and the dinner must be served of at least four items served for at least four hours between 5:00 p.m. and midnight.

HOTEL/MOTEL An establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time, and at least ten guest rooms.

INTOXICATING MALT LIQUOR Malt liquor containing more than 3.2 percent of alcohol by weight.

LICENSE A document, issued by the city, to an applicant permitting him or her to carry on and transact the business stated therein.

LICENSE FEE The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

LICENSED BED AND BREAKFAST An establishment licensed under city code, SEC.SEC. 114.01 through 114.03.

LICENSED PREMISES The space or structure described in the issued license. Unless limited in the issued license, in the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, LICENSED PREMISES means the entire golf course except for areas where motor vehicles are regularly parked or operated.

LICENSEE An applicant who, pursuant to his or her approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the city for carrying on the business stated therein.

LIQUOR Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight. (This definition includes so-called wine coolers and malt coolers with the alcoholic content limits stated herein.)

MALT LIQUOR Any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

MANUFACTURER Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

MINOR Any natural person who has not attained the age of 21 years.

OFF-SALE The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

ON-SALE The sale of alcoholic beverages for consumption on the licensed premises only.

PACKAGE and ORIGINAL PACKAGE Any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

RESTAURANT An establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having seating capacity for at least 30 guests.

SALE, SELL and SOLD All barters and all manners or means of furnishing beer, wine or liquor to persons, including the furnishing in violation or evasion of law.

WHOLESALER Any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

WINE The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. (This definition includes wine coolers with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, WINE may contain up to 14% alcohol by

volume for consumption with the sale of food. For all other purposes, WINE is a product containing not less than one-half of one percent nor more than 24% alcohol by volume for nonindustrial use.

GENERAL LICENSING PROVISIONS

111.15 Application and Fees

111.15.A

All applications shall be made at the office of the Clerk-Treasurer upon forms prescribed by the city, or if by the Commissioner, then together with the additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under M.S. §340A.802, as it may be amended from time to time.

111.15.B

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

111.15.C

At the time of the initial application, an applicant for an on-sale liquor license, an applicant for an beer license, or an applicant for an on-sale wine license shall pay to the city an application fee as established by Council, which fee shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the city in processing the application and the investigation thereof. No fee shall be required of an applicant for a temporary beer license. Should the Council or the Bureau of Criminal Apprehension determine that a comprehensive background investigation of an applicant for an on-sale liquor license is necessary, if the investigation is conducted within the state or the actual cost of the investigation does not exceed current limits then the applicant shall pay to the city an investigation fee as established by the City Council Fee Schedule. If the investigation is required outside the state an increased investigation fee takes effect, as established by the City Council Fee Schedule.[95]

111.16 Action on Application

111.16.A Granting

The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this chapter. Prior to consideration of any application for a license, the applicant

[95] See annual Fee Schedule.

shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before approval of the issuance by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

111.16.B Issuing

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

111.16.C License Refund in Certain Cases

In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee shall cease by reason of his or her illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under his or her license, except when the license is revoked, the city shall, upon the happening of any event, refund to the licensee, or to his or her estate, the part of the license fee paid by him as corresponds to the time the license had yet to run. In the event of death of the licensee, his or her personal representative is hereby authorized to continue operation of the business for not more than 90 days after the death of the licensee.

111.16.D Transfer

A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (D).

111.16.E Refusal and Termination

The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

111.16.F Revocation or Suspension

For any license granted under the provisions of this chapter, the Council may revoke, suspend for a period not to exceed 60 days, impose a civil fine not to exceed $2,000, or any combination of these sanctions, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the city code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if the revocation is mandatory by statute. If it shall be made to appear at the hearing thereon that the violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. The hearing shall be called by the Council upon written notice to the licensee served in person or by

certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this chapter, and in addition to grounds for revocation or suspension stated in the city code or statute, the following shall also be grounds for the action:

1) That the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor;

2) That the licensee had knowledge of the illegal acts upon licensed premises, but failed to report the same to police;

3) That the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts upon licensed premises; or

4) That the activities of the licensee created a serious danger to public health, safety, or welfare.

111.16.G Corporate Applicants and Licensees

A corporate applicant, at the time of application, shall furnish the city with a list of all persons that have an interest in the corporation and the extent of the interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the city Clerk-Treasurer in writing of any change in legal ownership, or beneficial interest in the corporation or in the shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any license shall be revoked 30 days after any change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the city designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no action shall be taken until after a hearing by the Council on notice to the licensee.

111.17 Disqualifications

111.17.A

No license under this chapter may be issued, or renewed, to:

1) A person who within five years of the license application has been convicted of any felony or a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages;

2) A person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than 5% of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any person is in any manner interested;

3) A person under the age of 21 years; or

4) A person not of good moral character and repute.

111.17.B

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

111.17.C

No license under this chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the city are owed.

111.18 Issuance of License to One Person or Premises

111.18.A Limitation on Issuance of Licenses to One Person or Place

No more than one off-sale liquor license shall be issued to any one person or for any one place.

111.18.B Premises Licensed

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

111.19 Financial Responsibility of Licensees

111.19.A Proof

No beer, wine or liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by Minnesota Statutes, by filing with the city a certificate that there is in effect an insurance policy or pool providing minimum coverages of:

1) $50,000 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of $100,000 because of bodily injury to two or more persons in any one occurrence, and in the amount of $10,000 because of injury to or destruction of property of others in any one occurrence; and

2) $50,000 for loss of means of support of any one person in any one occurrence; and, subject to the limit for one person, $100,000 for loss of means of support of two or more persons in any one occurrence.

111.19.B Exception

This section does not apply to on-sale beer licensees with sales of beer of less than $10,000 for the preceding year, nor to off-sale beer licensees with sales of beer of less than $20,000 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than $10,000 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this division (B).

111.19.C Documents Submitted to Commissioner

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

111.20 Insurance Certificate Requirements

Whenever an insurance certificate is required by this chapter the applicant shall file with the Clerk-Treasurer a certificate of insurance showing that the limits are at least as high as required, that coverage is effective for at least the license term approved, and that the insurance will not be cancelled or terminated without 30 days written notice served upon the Clerk-Treasurer. Cancellation or termination of the coverage shall be grounds for license revocation.

111.21 Posting of License Required

All licensees shall conspicuously post their licenses in their places of business.[96]

111.22 Resident Manager or Agent

Before a license is issued under this chapter to an individual who is a non-resident of the city, to more than one individual whether or not they are residents of the city, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the city as its manager or agent. The resident manager or agent shall, by the terms of his or her written consent, take full responsibility for the conduct of the licensed premises, and, serve as agent for service of notices and other process relating to the license. The manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If the manager or agent ceases to be a resident of the city or ceases to act in the capacity for the licensee without appointment of a successor, the license issued pursuant to the appointment shall be subject to revocation or suspension.

111.23 Duplicate License; Renewal of License

111.23.A

Duplicates of all original licenses under this chapter may be issued by the Clerk-Treasurer without action by the Council, upon licensees affidavit that the original has been lost, and upon payment of a fee of $2 for issuance of the duplicate. All duplicate licenses shall be clearly marked **DUPLICATE**.

111.23.B

Applications for renewal of all licenses under this chapter shall be made at least 60 days prior to the date of expiration of the license, and shall contain the information as is required by the city. This time requirement may be waived by the Council for good and sufficient cause. All license fees for the ensuing license year shall be paid in the form of cash, certified check, cashiers check or money order by the fifteenth day of December prior thereto.

[96] Penalty, see SEC. 110.99

111.24 Conditional Licenses

It shall be a condition upon every license issued under this chapter that the circumstances under which license is issued shall remain substantially the same during the entire period of the license. Any change in circumstance adversely affecting the eligibility of the holder of the license to be then issued the license shall be grounds for revocation, suspension, or civil fine. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place the special conditions and restrictions, in addition to those stated in this chapter, upon any license as it, in its discretion, may deem reasonable and justified.

111.25 License Fee Increases

No license fee for on-sale or off-sale beer, on-sale or off-sale liquor (including clubs), or on-sale wine, shall be increased except after notice and hearing thereon. Notice of the proposed increase shall be mailed at least 30 days before the hearing date to all then-current licensees and persons, if any, whose applications for the licenses are then pending before the Council.

OPERATION OF LICENSED PREMISES; PROHIBITED CONDUCT

111.40 Unlawful Acts

111.40.A Consumption

It is unlawful for any person to consume, or any licensee to permit consumption of, beer, wine or liquor on licensed premises more than 20 minutes after the hour when a sale thereof can legally be made.

111.40.B Removal of Containers

It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing beer, wine or liquor in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than 20 minutes after the hour when a sale thereof can legally be made.

111.40.C Closing

It is unlawful for any person, other than an on-sale licensee or his or her bona fide employee actually engaged in the performance of his or her duties, to be on premises licensed under this chapter more than 30 minutes after the legal time for making licensed sales. Provided, however, that this division shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than beer, wine or liquor.[97]

111.41 Conduct of Place of Business; Sale by Employee

111.41.A

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

[97] Penalty, see SEC. 110.99

111.41.B

Any sale of an alcoholic beverage in or from any premises licensed under this chapter by any employee authorized to make the sale in or from the place is the act of the employer as well as of the person actually making the sale; and every employer is liable to all of the penalties, except criminal penalties, provided by law for the sale, equally with the person actually making the sale.

111.42 Premises Open to Inspection

111.42.A

All premises licensed under this chapter shall at all times be open to inspection by any police officer to determine whether or not this chapter and all other laws are being observed. All persons, as a condition to being issued the license, consent to the inspection by the officers and without a warrant for searches or seizures.

111.42.B

It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making the inspection.

111.43 Gambling Prohibited

It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except as are licensed by the Charitable Gambling Control Board and then only except as it complies with the established policy of the city.[98]

111.44 Unlawful Acts by Minors

111.44.A Consumption

It is unlawful for any:

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

2) Minor to consume alcoholic beverages except in the household of the minors parent or guardian, and then only with the consent of the parent or guardian.

111.44.B Purchasing

It is unlawful for any person:

1) To sell, barter, furnish, or give alcoholic beverages to a minor unless the person is the parent or guardian of the minor, and then only for consumption in the household of the parent or guardian.

2) Minor to purchase or attempt to purchase any alcoholic beverage.

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

[98] Penalty, see SEC. 110.99

111.44.C Possession

It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minors parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his or her parent or guardian.

111.44.D Entering Licensed Premises

It is unlawful for any minor, as defined in this chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage. It is unlawful for a licensee to permit a person under the age of 18 years to enter licensed premises unless the person is attending a social event, consuming a meal, performing work for the establishment not including the serving or selling of alcoholic beverages, or in the company of a parent or guardian.

111.44.E Misrepresentation of Age

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

111.44.F Proof of Age

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

111.44.G Qualification for License

No minor shall qualify for a license.

111.45 Nudity or Obscenity Prohibited

111.45.A Definitions

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

NUDITY Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

OBSCENE PERFORMANCE A play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

OBSCENITIES Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

SADO-MASOCHISTIC ABUSE Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

SEXUAL CONDUCT Human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

SEXUAL EXCITEMENT The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

111.45.B Unlawful Act

It is unlawful for any person issued a license provided for in this chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.[99]

111.46 Sales of Confections Containing Alcohol or Liqueur-filled Candy

111.46.A Confections Containing Alcohol

It is unlawful for any person to sell a confection containing alcohol to any person under the age of 21 years. For purposes of this section, **CONFECTION CONTAINING ALCOHOL** means a confection containing or bearing not more than 5% alcohol by volume where the alcohol is in a nonliquid form by reason of being mixed with other substances in the manufacture of the confection, does not include liqueur-filled candy as herein defined, and may be sold only by an exclusive liquor store licensed under this chapter or a business establishment that derives more than 50% of its gross sales from the sale of confections.

111.46.B Liqueur-filled Candy

It is unlawful for any person to sell liqueur-filled candy to any person under the age of 21 years. For purposes of this section, **LIQUEUR-FILLED CANDY** means any confectionery containing more than one-half of one percent alcohol by volume in liquid form that is intended for or capable of beverage use, and may be sold only by an eligible licensee under this chapter.

[99] Penalty, see SEC. 110.99

BEER LICENSES

111.60 Beer License Required

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefor from the city. This section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the city. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale beer license, and may sell beer off-sale without an additional license.[100]

111.61 Beer License Fees

111.61.A

The annual on-sale beer license fee shall be set by resolution by the City Council. See Fee Schedule.

111.61.B

The annual off-sale beer license fee shall be set by resolution by the City Council. See Fee Schedule.

111.61.C

The temporary, two day, on-sale beer license fee shall be set by resolution by the City Council. See Fee Schedule.[101]

111.62 Temporary Beer License

111.62.A Applicant

A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota, and having its registered office and principal place of activity within the city, shall qualify for a temporary on-sale beer license, for serving beer on and off school grounds, and in and out of school buildings. The license may provide that the licensee may contract with the holder of a full-year on-sale licensee, issued by the city, for beer catering services.

111.62.B Conditions

111.62.B.1

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

[100] Penalty, see SEC. 110.99
[101] **Cross-reference:** License fee increases, see SEC. 111.025

111.62.B.2

The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the city. Any license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of $50,000 for injury to any one person and $100,000 for injury to more than one person, and $10,000 for property damage, naming the city as an insured during the license period. The license shall be issued only on the condition that the applicant will not sell in excess of $10,000 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

111.62.B.3

The applicant shall comply with all other restrictions, limitations and regulations for the sale of beer under the city code and statutes.[102]

111.63 Beer License Restrictions and Regulations

111.63.A

No licensee shall, during the effective period of the license, be the owner or holder of a federal retail liquor dealers tax stamp for the sale of intoxicating liquor, unless the owner or holder also holds a liquor license from the city, and ownership or holding thereof shall be grounds for immediate revocation, without a hearing.

111.63.B

No person who has not attained the age of 18 years shall be employed to sell or serve beer in any on-sale establishment.

111.63.C

No license shall be granted for any building within 100 feet of any public elementary or secondary school structure, and, except for restaurants whose primary business is the sale of prepared food, no license shall be granted for any building within 100 feet of any church structure.

111.63.D

Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the city code and other laws relating to the operation of licensees business.

111.64 Hours and Days of Beer Sales

No sale of beer shall be made between the hours of 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 2:00 a.m. and 12:00 noon on Sunday.

[102] Penalty, see SEC. 110.99

111.65 Unlawful Acts Involving Beer[103]

It is unlawful for any:

A) Person to knowingly induce another to make an illegal sale or purchase of beer.

B) Licensee to sell or serve beer to any person who is obviously intoxicated.

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

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

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

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

LIQUOR LICENSES

111.80 Liquor License Required

111.80.A

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the city. This section shall not apply to:

1) The potable liquors as are intended for therapeutic purposes and not as a beverage;

2) Industrial alcohol and its compounds not prepared or used for beverage purposes;

3) Wine in the possession of a person duly licensed under this chapter as an on-sale wine licensee;

4) Sales by manufacturers to wholesalers duly licensed as such by the Commissioner;

5) Sales by wholesalers to persons holding liquor licenses from the city; or

6) The providing by a person holding an off-sale license from the city of samples of malt liquor, wine, liqueurs, and cordials which the licensee currently has in stock and is offering for sale to the general public, provided the malt liquor, wine, liqueur, and cordial samples are dispensed at no charge and consumed on the licensed premises during permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial per variety per customer.

[103] Penalty, see SEC. 110.99

111.80.B

Any person licensed to sell liquor on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license. The city may issue annual on-sale liquor licenses only to the following:

1) Hotels;

2) Restaurants;

3) Bowling centers;

4) Clubs or congressionally chartered veterans organizations, provided that liquor sales will be made only to members and bona fide guests; and

5) Exclusive liquor stores.

111.81 Liquor License Fees

111.81.A

The annual on-sale liquor license fees shall be, as follows:

1) For restaurants, hotels or motels providing a full menu shall be set by resolution by the City Council. See Fee Schedule.

2) For exclusive liquor stores, restaurants, hotels or motels not providing a full menu shall be set by resolution by the City Council. See Fee Schedule.

111.81.B

The annual off-sale liquor license fee shall be set by resolution by the City Council. See Fee Schedule.

111.81.C

The annual Sunday liquor license fee shall be set by resolution by the City Council. See Fee Schedule.

111.81.D

The annual club on-sale liquor license fee shall be set by resolution by the City Council. In the case of a club with a membership of 200 or less the annual license fee shall be set at a lesser amount. See Fee Schedule.

111.81.E

The sports or convention facilities liquor license fee shall be set by resolution by the City Council. See Fee Schedule.

111.81.F

The temporary liquor license fee shall be set by resolution by the City Council. See Fee Schedule.

111.82 Liquor License Restrictions and Regulations

111.82.A

No license shall be effective until a permit shall be issued to a licensee under the laws of the United States, if the permit be required under the laws or the State of Minnesota.

111.82.B

No person under 18 years of age may sell or serve liquor on licensed premises.

111.82.C

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

111.82.D

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

111.82.E

No license shall be granted for any building within 100 feet of any public elementary or secondary school structure, and, except for restaurants whose primary business is the sale of prepared food, no license shall be granted for any building within 100 feet of any church structure.

111.82.F

No more than a total of six off-sale liquor licenses shall be outstanding at any one time. In order to qualify for an off-sale license, the applicant shall, among other things, be the holder of an on-sale license and the operator of an on-sale establishment. For purposes of this division, the person who owns and controls on a day-to-day basis at least 51% of an applicant which is a corporation, partnership, or other business organization, may be deemed to be the holder of the license and operator of the establishment.

111.82.G

No on-sale liquor license shall be granted to any person which does not have invested or does not propose to invest in the fixtures and structure of the licensed establishment, exclusive of land, at least $150,000 on a replacement cost, less depreciation basis. The Council may provide for an independent appraisal, at the expense of the applicant, as an aid- in determining the value. If this provision is not complied with within one year from the date of initial issuance of the license, the same shall be grounds for refusal or revocation of the license.

111.82.H

Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the city code and other laws relating to the operation of the licensed business.

111.83 Hours and Days of Liquor Sales

No on-sale shall be made after 2:00 a.m. on Sunday, nor between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Saturday. No off-sale shall be made before 11:00 a.m. or after 6:00 p.m. on Sunday, nor before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday, nor on Thanksgiving Day or Christmas Day, December 25. No sale of liquor shall be made after 8:00 p.m. on December 24. This section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in §111.084 of this chapter.

111.84 Sunday Sales

The electorate of the city having heretofore authorized the same, a Sunday on-sale liquor license may be issued to hotels, motels, restaurants, bowling centers, and clubs, which have facilities for serving not less than 30 guests at one time. The hours of the sales shall be from 12:00 noon, or 10:00 a.m. if the licensee is in compliance with the Minnesota Clean Air Act, on Sunday to 2:00 a.m. on Monday in conjunction with the serving of food.

111.85 Unlawful Acts Involving Liquor

It is unlawful for any:

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

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

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

D) Licensee to sell or serve liquor to any person who is obviously intoxicated.

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

111.86 Sports or Convention Facilities License

The Council may authorize any holder of an on-sale liquor license issued by the city or by an adjacent municipality to sell liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports or convention facility owned by the city, or instrumentality thereof having independent policy-making and appropriating authority and located within the city. The licensee must be engaged to sell liquor at such an event by the person or organization permitted to use the premises, and may sell liquor only to persons attending the event. The licensee shall not sell liquor to any person attending or participating in any amateur athletic event. The sales may be limited to designated areas of the facility. All the sales shall be subject to all laws relating thereto. No club licensee shall qualify to serve liquor in the facilities.

111.87 Temporary Liquor License

111.87.A License Authorized

Notwithstanding any provision of the city code to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. The license

will provide that the licensee shall contract with the holder of a full-year on-sale license, issued by the city, for liquor catering services.

111.87.B Applicant

The applicant for a license under this section must be a club or charitable, religious, or other non-profit organization in existence for at least three years, or a political committee registered under M.S. 10A.14, as it may be amended from time to time.

111.87.C Terms and Conditions of License

111.87.C.1

No license is valid until approved by the Commissioner.

111.87.C.2

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

111.87.C.3

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

111.87.C.4

All licenses and licensees are subject to all provisions of statutes and the city code relating to liquor sale and licensing. The licensee shall provide proof of financial responsibility coverage and, in the case of catering by a full-year on-sale licensee, the caterer shall provide proof of the extension of the coverage to the licensed premises.

111.87.C.5

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

111.87.C.6

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

111.87.D Insurance Required

The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the city. Any license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of $50,000 for injury to any one person, $100,000 for injury to more than one person, and $10,000 for property damage, naming the city as an insured during the license period.

ON-SALE WINE

111.100 On-Sale Wine License Provisions

111.100.A On-Sale Wine License Required

It is unlawful for any person to sell, or keep or offer for sale, anywine without a license therefor from the city. This section shall not apply to possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with the legitimate religious ceremony, to sales by manufacturers to wholesalers duly licensed as such by the State of Minnesota, to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the city, or to sales by wholesalers to persons holding on-sale wine licenses from the city. Any person licensed to sell wine and beer on-sale whose gross receipts are at least 60 percent attributable to the sale of food may sell intoxicating malt liquors at on-sale without an additional license.

111.100.B On-Sale Wine License Fee

The annual on-sale wine license fee shall be set by resolution by the City Council. See Fee Schedule.

111.100.C On-Sale Wine License Restrictions and Regulations

111.100.C.1

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

111.100.C.2

No license shall be effective until a permit shall be issued to a licensee under the laws of the United States, if the permit be required under the laws or the State of Minnesota.

111.100.C.3

No person under 18 years of age may sell or serve wine on licensed premises.

111.100.C.4

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

111.100.C.5

No license shall be granted for any building within 100 feet of any public elementary or secondary school structure, and, except for restaurants whose primary business is the sale of prepared food, no license shall be granted for any building within 100 feet of any church structure.

111.100.C.6

No more than one license shall be held by any person. For the purpose of this division, any person owning a beneficial interest of 5%, or more, of any licensed establishment shall be considered a licensee.

111.100.C.7

No on-sale wine license shall be granted to any person which does not have invested or does not propose to invest in the fixtures and structure of the licensed establishment, exclusive of land, at least $150,000 for a restaurant or $50,000 for a licensed bed and breakfast facility, on a replacement cost, less depreciation basis. The Council may provide for an independent appraisal, at the expense of the applicant, as an aid in determining the value. If this provision is not complied with within one year from the date of initial issuance of the license, the same shall be grounds for refusal or revocation of the license.

111.100.C.8

On-sale wine licenses shall be granted only to restaurants and licensed bed and breakfast facilities as defined in this chapter. Provided, however, for purposes of this section, the restaurant shall have appropriate facilities for seating not less than 30 guests at one time.

111.100.C.9

Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the city code and other laws relating to the operation of the licensed business.[104]

111.101 Hours and Days of Sales by On-Sale Wine Licensees

No on-sale sale of wine shall be made between 2:00 a.m. and 12:00 noon on Sunday, nor between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Saturday, nor between the hours of 8:00 p.m. on December 24 and 8:00 a.m. on December 25.

111.102 Unlawful Acts Involving Wine[105]

It is unlawful for any:

A) Person to knowingly induce another to make an illegal sale or purchase of wine.

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

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

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

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

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

G) Licensed bed and breakfast facility licensee to furnish wine to any person who is not a registered guest of the facility.

[104] Penalty, see SEC. 110.99
[105] Penalty, see SEC. 110.99

111.103 On-Sale Wine License not Required for Bed and Breakfast Facility

No on-sale wine license is required for a bed and breakfast facility as defined in Chapter 152 and registered with the Commissioner, provided the facility provides no more than two glasses per day each containing not more than four fluid ounces of wine at no additional charge to a person renting a room at the facility. Wine so furnished may be consumed on the premises of the bed and breakfast facility.

CONSUMPTION AND DISPLAY

111.115 One Day License

111.115.A License Required

Any non-profit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it, shall first obtain a license therefor from the city. It is unlawful for any organization to fail to obtain the license.

111.115.B Term

The term of the license shall be one day only.

111.115.C Limitation on Number

No more than ten licenses shall be issued in any calendar year.

111.115.D License Fee

The fee for the one-day license shall be set by resolution by the City Council. See Fee Schedule.

111.115.E Approval

In addition to Council approval, the license must be approved by the Commissioner of Public Safety.[106]

111.116 Bottle Clubs

111.116.A Definition

For purposes of this section, the term **BOTTLE CLUB** is a club as defined in this chapter, or an unincorporated society which, except for its lack of incorporation, otherwise meets the requirements of a club, and which is not otherwise licensed for the sale of liquor, either on-sale or off-sale or both.

[106] Penalty, see SEC. 110.99

111.116.B Consumption and Display License Required

It is unlawful for any bottle club or for any business establishment to allow the consumption or display of liquor or the serving of any liquid for the purpose of mixing liquor without a license therefor from the city, but a bottle club as herein defined and licensed may permit its members to bring and keep a personal supply of liquor in lockers assigned to the members.

111.116.C Consumption and Display License Fee

The annual consumption and display license fee shall be set by resolution by the City Council. See Fee Schedule.

111.116.D Consumption and Display Restrictions and Regulations

111.116.D.1

Every bottle, container or other receptacle containing liquor stored by a member of a bottle club shall have attached to it a label signed by the member of the club, shall be kept in a locker designated to the use of the member, and no other liquor shall be on bottle club premises.

111.116.D.2

It is unlawful for any club member who is a minor to be assigned a locker for the storage of liquor or to consume or display liquor on any premises under control by the club.

111.116.D.3

It is unlawful to consume or allow consumption or display of liquor in any bottle club or business establishment between the hours of 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

111.116.D.4

No license shall be issued to any bottle club when a member of the board, management, executive committee, or other similar body chosen by its members, or when a business establishment or the owner thereof holds a federal retail liquor dealers special tax stamp for the sale of liquor.

111.116.D.5

Liquor sold, served or displayed in violation of this section shall be subject to seizure for purposes of evidence.

111.116.D.6

No license shall be issued unless the licensee can seat and serve food to not less than 500 persons at one time and in one room.

111.116.E Other Licenses

An on-sale liquor or wine licensee may also be licensed for consumption and display.

111.116.F State Permit Required

It is unlawful for any person or business establishment, directly or indirectly, or upon any pretense or by any device, to allow the consumption or display of liquor, or the serving of any liquid for the purpose of mixing of liquor, without first having obtained a permit therefor from the State of Minnesota. The state permit shall expire on March 31 of each year.

Chapter 112: Amusements

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AMUSEMENT DEVICES

112.01 Definitions

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

AMUSEMENT DEVICE Includes game of skill, coin amusement, and video game as herein defined.

ARCADE A contiguous area in which more than six amusement devices are kept for use by the public generally.

COIN AMUSEMENT Any machine which upon the insertion of a coin, token or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

DISTRIBUTOR The person who places amusement devices on premises not owned by him or under his or her control, which devices may be played by the public generally for a price paid either directly or indirectly.

GAME OF SKILL Any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for the privilege.

VIDEO GAME Any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.

112.02 License Required

It is unlawful for any person to have upon premises owned or controlled by him any amusement device, or operate an arcade, without a license therefor from the city. It is unlawful for any person to be a distributor without a license therefor from the city.[107]

112.03 Unlawful Use and Devices[108]

It is unlawful for any person to:

A) Sell or maintain a machine or device which is for gambling or contains an automatic pay-off device;

B) Give any prize, award, merchandise, gift, or thing of value to any person on account of operation of the device;

C) Sell or maintain, or permit to be operated in his or her place of business, any amusement device equipped with an automatic pay-off device;

D) Equip any amusement device with an automatic pay-off device;

[107] Penalty, see SEC.110.99
[108] Penalty, see SEC. 110.99

E) Permit the playing of coin amusement machines between the hours of 1:00 a.m. and 6:00 a.m. of any day; or

F) If he or she is a licensee, agent or employee of a licensee, knowingly permit a minor to be present on the premises in violation of the curfew laws or permit a person under the age of 17 to be present on the premises when school is in session unless on a valid excused absence.

DANCES

112.15 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 wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money, directly or indirectly.

PUBLIC DANCING PLACE Any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

112.16 License Required

It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefor from the city.[109]

112.17 Application; Conditions of License

112.17.A

Notwithstanding any provisions to the contrary contained in this Code, the Clerk shall act upon all applications for dance licenses when no more than 400 people are expected to attend the dance and when alcohol is not expected to be served.

112.17.B

A verified application for a dance license shall be filed with the Clerk on a form approved by the Council and shall specify, at a minimum, the names and addresses of the person, persons, committee or organization that is to hold the dance, time and place thereof, the area of the dance floor, the number of persons expected to attend, if alcohol will be served and whether the applicant has been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

112.17.C

All applications shall be referred to the Chief of Police to verify that the applicant has not been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

[109] Penalty, see SEC. 110.99

112.17.D

Applications that are not acted upon by the Clerk shall be referred by the Council to the Chief of Police for investigation and report prior to being acted upon by the Council.

112.17.E

The Council shall act upon all dance license applications not acted upon by the Clerk at a regular or special meeting thereof, whether or not it is included in the call or agenda of the meeting.

112.17.F

At least three officers of the law shall be designated by the Chief of Police and employed by the city to be present at every public dance, the license for which is acted upon by the Clerk, during the entire time the dance is being held. For purposes of this division (F), the term OFFICER OF THE LAW means any person who is a full-time peace officer, part-time peace officer, reserve officer, or person deputized by the Chief of Police. In the discretion of the Council, more than three officers of the law may be required.

112.17.G

The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefor, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.

112.17.H

No license shall be issued to any applicant under the age of 18 years.

112.17.I

Before a license is issued under this section to more than one individual or to a corporation, partnership or association, the applicant or applicants shall appoint in writing a natural person as its agent. The agent, by the terms of the agents written consent, shall take full responsibility for the conduct of the public dancing place. The agent must be a person who, by reason of age, character, reputation and other attributes, could qualify individually as a licensee.

112.17.J

Notwithstanding any provisions of law to the contrary, the Council may, pursuant to general Council policy established by resolution or upon a special finding of the necessity therefor, place the regulations, conditions and restrictions, in addition to those stated in this chapter, upon any license as it, in its discretion, may deem reasonable and justified. All the regulations, conditions and restrictions shall be stated on the license either verbatim or by reference to the Council resolution.[110]

[110] Penalty, see SEC. 110.99

SHOWS

112.30 License Required

It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license therefor from the city.[111]

112.31 Exceptions

No license shall be required in the following instances:

A) Performances presented in the local schools and colleges, under the sponsorship of the schools and colleges, and primarily for the students thereof only.

B) Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only.

C) Any performance or event in, or sponsored by, bona fide local church and non-profit organizations, provided that the organization shall be incorporated.

BILLIARDS, POOL, BOWLING, AND THE LIKE

112.45 License Required

It is unlawful for any person to keep or maintain any pool, foosball, billiard, snooker or other game table, or any bowling alley (bowling lane) available for public use without first having obtained a license from the city.[112]

112.46 Practices Prohibited[113]

It is unlawful for any:

A) Pool, foosball, billiard, snooker or other game table licensee to be open between 1:00 a.m. and 8:00 a.m. of any weekday, or between 1:00 a.m. and 12:00 noon on any Sunday, and permit use of the licensed facilities.

B) Person under the age of 19 years to play pool, foosball, billiards, snooker or other game table where beer or liquor is sold or consumed, unless accompanied by his or her parent or guardian.

C) Licensee to cause or permit any person under the age of 19 years to play pool, foosball, billiards, snooker or other similar game table where beer or liquor is sold or consumed unless the minor is accompanied by his or her parent or guardian.

D) Licensee to permit any form of gambling thereon.

[111] Penalty, see SEC. 110.99
[112] Penalty, see SEC. 110.99
[113] Penalty, see SEC. 110.99

E) Licensee to permit any person to become disorderly or to use profane, obscene or indecent language.

F) Licensee, not having an on-sale liquor license, to sell or possess, or knowingly allow any person on the licensed premises to sell or possess, intoxicating liquor.

ROLLER SKATING RINKS

112.60 License Required

It is unlawful for any person to operate a roller skating rink without a license therefor from the city.[114]

112.61 Regulations

112.61.A

It is the responsibility of every licensee to maintain good order on licensed premises.

112.61.B

No license shall issue until the applicant has filed with the Clerk-Treasurer a policy or certificate of public liability insurance coverage concurrent with the license term with limits of at least $10,000 for injury to one person, and $20,000 for each occurrence.[115]

MINIATURE GOLF COURSES

112.75 License Required

It is unlawful for any person to operate a miniature golf course without a license therefor from the city.[116]

112.76 Insurance

No license shall issue until the applicant has filed with the Clerk-Treasurer a policy or certificate of public liability insurance for coverage concurrent with the license term with limits of at least $10,000 for injury to one person, and $20,000 for each occurrence.

[114]Penalty, see SEC. 110.99
[115]Penalty, see SEC. 110.99
[116]Penalty, see SEC. 110.99

Chapter 113: Auctioneers, Junk Dealers and Pawnbrokers

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AUCTIONEERS

113.01 License Required

It is unlawful for any person to sell property at an auction without a license therefor from the city.[117]

113.02 Exceptions

This subchapter shall not apply to a person selling property owned by him or her for at least six months, nor to judicial sales or sales made under court order.

JUNK DEALERS

113.15 Definition

The term **JUNK** as used in this subchapter means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags and wood.

113.16 License Required

It is unlawful for any person to deal in junk without having a license therefor from the city.[118]

113.17 Restriction

No license shall be granted to any person for operation upon premises contrary to any zoning provision of the city code, or other law.

PAWNBROKERS

113.30 Definitions

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

PAWN TRANSACTION Any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

PAWNBROKER A person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

[117] Penalty, see SEC. 110.99
[118] Penalty, see SEC. 110.99

PAWNSHOP The location at which or premises in which a pawnbroker regularly conducts business.

PLEDGED GOODS Tangible personal property other than a chose in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

113.31 License Required

113.31.A

It is unlawful for any person to engage in the business as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.

113.31.B

A separate license is required for each place of business. The city may issue more than one license to a person if that person complies with this subchapter for each license.

113.31.C

No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor.

113.31.D

The Chief of Police shall be notified by the city of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this subchapter.[119]

113.32 Persons Disqualified; Unemployment Clearance Required

113.32.A

No license under this subchapter may be issued or renewed to a person who:

1) Is a minor;

2) Has been convicted of any crime related to the occupation of pawnbroker; or

3) Is not of good moral character or repute.

113.32.B

No license shall be granted, transferred, or renewed and shall be revoked if the Commissioner notifies the city that the licensee owes the state delinquent unemployment insurance contributions, reimbursements, or benefit overpayments.

113.33 Change in Ownership

Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

[119] Penalty, see SEC. 110.99

113.34 Pawn Tickets

113.34.A Entries of Pawn Tickets

At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the city:

1) A complete and accurate description of the property, including model and serial number if indicated on the property;

2) The full name, residence address, residence telephone number, and date of birth of the pledgor or seller;

3) The date and time of pawn or purchase transaction;

4) The identification number and state of issue from one of the following forms of identification of the seller or pledgor: current valid Minnesota drivers license; current valid Minnesota identification card; or current valid photo identification card issued by another state or Province of Canada;

5) Description of the pledgor including approximate height, sex, and race;

6) Amount advanced or paid;

7) The maturity date of the pawn transaction and the amount due; and

8) The monthly and annual interest rates, including all pawn fees and charges.

113.34.B Printed Pawn Ticket

The following shall be printed on all pawn tickets:

1) The statement that Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods;

2) The statement that The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item;

3) The statement that This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record; and

4) A blank line for the pledgors signature.

113.35 Records; Prohibitions Concerning

113.35.A

The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.

113.35.B

The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.

113.35.C

A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not[120]:

1) Make any false entry in the records of pawn transactions;

2) Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensees pawn transactions;

3) Refuse to allow the appropriate law enforcement agency, the Attorney General, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the persons possession during the ordinary hours of business or other times acceptable to both parties;

4) Fail to maintain a record of each pawn transaction for three years;

5) Accept a pledge or purchase property from a person under the age of 18 years;

6) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this subchapter or providing for a maturity date less than one month after the date of the pawn transaction;

7) Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in state statutes, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to state statutes, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

8) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;

9) Sell or otherwise charge for insurance in connection with a pawn transaction; or

10) Remove pledged goods from the pawnshop premises or other storage place approved by the city at any time before unredeemed, pledged goods are sold pursuant to statute.

113.36 Effect of Non-Redemption

113.36.A

A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.

[120] Penalty, see SEC. 110.99

113.36.B

The pawnbrokers right, title, and interest in the pledged goods under this division is qualified only by the pledgors right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up the date of redemption.

113.36.C

A pawn transaction that involves holding only the title to property is subject to M.S. Chapter 168A or 336, as it may be amended from time to time.

113.37 Permitted Charges

113.37.A

A pawnbroker may contract for and receive a pawnshop charge not to exceed 3% per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed the amount set by Council as provided for in the Fee Schedule if the property is not in the possession of the pawnbroker.

113.37.B

The pawnshop charge allowed under this division shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.

113.37.C

Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this subchapter.

113.37.D

Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this subchapter, shall be uncollectible and the pawn transaction shall be void.

113.37.E

A schedule of charges permitted by this subchapter shall be posted on the pawnshop premises in a place clearly visible to the general public.

113.38 Risk of Loss

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

in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost of damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

113.39 Motor Vehicle Title Pawn Transactions

113.39.A

In addition to the other requirements of this subchapter, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:

1) Be licensed as a used motor vehicle dealer under M.S. Chapter 168, as it may be amended from time to time, and post the license on the pawnshop premises;

2) Verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety; and

3) Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

113.39.B

A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.[121]

113.40 Violations

A violation of this subchapter is a misdemeanor.[122]

[121] Penalty, see SEC. 110.99
[122] Penalty, see SEC. 110.99

Chapter 114:
Bed and Breakfast Inns and Other Rentals

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BED AND BREAKFAST INNS

114.01 Definition

The term **BED AND BREAKFAST INN** has the meaning set forth in city code SEC. 152.003.

114.02 License Required

It is unlawful for any person to operate or maintain, or to allow the operation or maintaining upon property which he or she owns or controls, a bed and breakfast inn without having a license therefor from the city.[123][124]

114.03 Restriction

No license shall be granted for any person to operate or maintain a bed and breakfast inn contrary to any zoning provision of the city code, or other law.

RENTAL HOUSING

114.15 License Required

It is unlawful for any person as owner, landlord, agent or manager within the city to rent or cause to be rented any dwelling unit (as defined in city code Chapter 152) without first having obtained for the dwelling unit a license or temporary certificate from the city. It is also unlawful for any person to occupy any dwelling unit unless the unit has a license or temporary certificate from the city.[125]

114.16 Temporary Certificate

114.16.A

Upon receipt of a completed application for a license, with tender of any appropriate license and inspection fee, the Rental Licensing Official may issue a temporary certificate indicating that a license has been applied for, and that the license will be issued or denied after the dwelling unit has been inspected for compliance with the applicable laws and regulations. A temporary certificate authorizes continued occupancy of the dwelling unit pending the issuance or denial of the applied for license. Dwelling units that are converted to rental usage after the effective date of the license requirement provided for in this subchapter are required to make application for a temporary certificate prior to occupancy.

114.16.B

Temporary certificates or licenses issued under this subchapter will expire on December 31 of each year.

[123] Penalty, see SEC. 110.99
[124] **Cross-reference:** On-sale wine license not required for bed and breakfast facility, see SEC. 111.103
[125] Penalty, see SEC. 110.99

114.17 Code Compliance

No license may be issued unless each dwelling unit for which it is issued meets all minimum applicable housing, building, fire and safety regulations.

114.18 Display of License and Certificate

Licenses under this subchapter must be prominently and publicly displayed on or in the dwelling unit or public area of the structure containing the dwelling.[126]

[126] Penalty, see SEC. 110.99

Chapter 115:
Garbage and Refuse Haulers

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115.01 Definitions

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

GARBAGE All putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes.

OTHER REFUSE Ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrescible wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

115.02 License Required

It is unlawful for any person to haul garbage or other refuse for hire without a license therefor from the city, or to haul garbage or other refuse from his or her own residence or business property other than as herein excepted.[127]

115.03 Exception

115.03.A

Nothing in this chapter shall prevent persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed:

1) That all garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top;

2) That all other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo; and

3) That all garbage and other refuse shall be dumped or unloaded only at the designated sanitary landfill.

115.03.B

Haulers acting under contract with the city shall not be required to be licensed under this chapter.[128]

115.04 Hauler License Requirements

115.04.A

Hauler licenses shall be granted only upon the condition that the licensee have water-tight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or unloaded only at the designated sanitary land-fill, and strictly in accordance with regulations relating thereto.

[127] Penalty, see SEC. 110.99
[128] Penalty, see SEC. 110.99

115.04.B

Before a garbage and refuse haulers license shall be issued, the applicant shall file with the Clerk-Treasurer evidence that he or she has provided public liability insurance on all vehicles in at least the sum of $100,000 for the injury of one person, $300,000 for the injury of two or more persons in the same accident, and $50,000 for property damages.

115.04.C

Licensees shall deliver all refuse to the sanitary land-fill and shall be required to pay non-resident rates for any refuse collected outside the city. Collection outside the city and failure to pay non-resident rates therefor shall be grounds for revocation of the license.

115.04.D

The Council, in the interest of maintaining healthful and sanitary conditions in the city, hereby reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.

115.04.E

Each applicant shall file with the Clerk-Treasurer, before a garbage and refuse haulers license is issued or renewed, a schedule of proposed rates to be charged by him or her during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Nothing herein shall prevent a licensee from petitioning the Council for review of the rates during the licensed period, and the Council may likewise consider the petition and make new rates effective at any time. No licensee shall charge rates in excess of the rates approved by the Council.

115.04.F

No license shall be issued under this chapter for hauling refuse from residential property.

Chapter 116:
Licensing of Certain Trades

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GAS FITTERS

116.15 License Required

It is unlawful for any person to install, alter, service or repair gas piping, appliances or appurtenances, without a license therefor from the city.[129]

116.16 Insurance Required

Before a license shall be granted to any person as a gas fitter, he or she shall have filed with the Clerk-Treasurer a policy or certificate of public liability insurance, including products liability insurance, for coverage concurrent with the license term with limits of $100,000 for injury to one person, $300,000 for each occurrence, and $25,000 for property damage.

CEMENT CONTRACTORS

116.30 Definition

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

CEMENT CONTRACTOR Any person who constructs, reconstructs or repairs concrete sidewalks, curbs or gutters upon the public streets of the city.

116.31 License Required

It is unlawful for any cement contractor to engage in the business without a license therefor from the city.[130]

116.32 Bond and Insurance

116.32.A

No license shall be issued until the applicant has filed with the city a bond in the penal sum of $1,000 on which the city is obligee, conditioned on the use of quality materials for all work, and performance of the work in a good and workmanlike manner.

116.32.B

No license shall issue until the applicant has filed with the city a policy or certificate of public liability insurance for coverage concurrent with the licensed term and with limits of at least $100,000 for injury to one person, $300,000 for each occurrence, and $25,000 property damage.

[129] Penalty, see SEC.110.99
[130] Penalty, see SEC. 110.99

Chapter 117:
Peddlers and Solicitors

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117.01 Definitions

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

PEDDLER A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personnel property that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.

PERSON Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

REGULAR BUSINESS DAY Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term canvasser."

TRANSIENT MERCHANT A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

117.02 Exceptions to Definitions

117.02.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. No license or registration will be required of any person desiring to engage in a regulated activity for a charitable, religious, patriotic, or philanthropic purpose not involving the use of a professional fundraiser.

117.02.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.

117.03 Licensing; Exemptions

117.03.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 MS. Chapter 329 as it may be amended from time to time.

117.03.B City License Required

Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to SEC. 117.07.

117.03.C Application

Application for a city license to conduct business as a peddler or transient merchant shalt be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

1) Applicants full legal name and date of birth.
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 applicants permanent residence.
6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.
7) Full address of applicant's regular place of business (if any).
8) Any and all business related telephone numbers of the applicant.
9) The type of business for which the applicant is applying for a license.
10) Whether the applicant is applying for an annual or daily license.
11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).
12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.

13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.

14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

15) Proof of any required licenses.

16) Written permission of the property owner or the property owners 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.

20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

117.03.D Fee

The fee established by resolution, as amended from time to time shall accompany all applications for a license under this chapter.

117.03.E Procedure

Upon receipt of the completed application and payment of the license fee, the Clerk-Treasurer, 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 Clerk-Treasurer determines that the application is incomplete, the Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the Clerk-Treasurer 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 Clerk-Treasurer must issue the license unless there exist grounds for denying the license under SEC. 117.04, in which case the Clerk-Treasurer must deny the license. If the Clerk-Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicants right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

117.03.F Duration

An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

117.03.G License Exemptions

117.03.G.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.

117.03.G.2

No license shall be required of any person going from house-to-house, door-todoor, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech. press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

117.03.G.3

Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.[131]

117.04 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 persons 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.

E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney Generals 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.

F) The applicant is included on any state or national registry for sexual or predatory offenders.

117.05 License Suspension

117.05.A Generally

Any license issued under this section may be suspended at the discretion of the Clerk Treasurer or Crookston Police Chief for violation of any of the following:

1) Fraud, misrepresentation or incorrect statements on the appiication form.

2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

3) Convicti0n of any offense for which granting of a license could have been denied under SEC.117.04.

4) Violation of any provision of this chapter.

[131] Penalty, see SEC. 110.99

117.05.B Multiple Persons under One License

The suspension 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 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.

117.05.C Notice

Prior to suspending any license issued under this chapter, the city shall provide the license holder with notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation.

117.05.D Appeals

Any person whose license is suspended under this section shall have the right to an administrative appeal under SEC. 30.03 and, thereafter, the right to appeal the decision in court.

117.06 License Revocation

117.06.A Generally

Any license suspended under SEC. 117.05 may be revoked at the discretion of the City Council for violation of any of the following;

1) Fraud, misrepresentation or incorrect statements on the appiication form.
2) Fraud, misrepresentation or false statements made during the course of the licensed activity.
3) Conviction of any offense for which granting of a license could have been denied under SEC.117.04.
4) Violation of any provision of this chapter.

117.06.B Multiple Persons under One License

The 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 revocation of each authorized persons authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is revoked.

117.06.C Notice

Prior to revoking 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.

117.06.D Public Hearing

Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the Clerk-Treasurer within ten regular business days following the service of the notice, the city may proceed with the revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed

in the mail. If a public hearing is requested within the stated timeframe, 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.

117.06.E Appeals

Any person whose license is revoked under this section shall have the right to appeal that decision in court.[132]

117.07 License Transferability

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.[133]

117.08 Registration

All solicitors, and any person exempt from the licensing requirements of this chapter under SEC. 117.03, shall be required to register with the city. 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 Clerk-Treasurer shall issue to the registrant a Certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.[134]

117.09 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 8:00 am. or after 8:00 pm.

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.

G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.[135]

[132] Penalty, see SEC. 110.99
[133] Penalty, see SEC. 110.99
[134] Penalty, see SEC. 110.99
[135] Penalty, see SEC. 110.99

H) Violations of other non-traffic related city ordinances, state statutes, or federal law.

I) Selling products not contained in the manufacturer's original packaging.

117.10 Exclusion by Placard

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating No Peddlers, Solicitors or Transient Merchants," or Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.[136]

117.11 Aggressive Solicitation

117.11.A Policy

As an aid in the interpretation and enforcement of this section, the City Council finds that:

1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.

2) Aggressive solicitation may include approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

3) The presence of individuals who solicit money from persons in places that are confined, difficult to avoid, or where a person might find it necessary to wait, is especially troublesome because of the enhanced fear of crime.

4) This section is intended to protect citizens from the disruption, fear and intimidation accompanying certain kinds of solicitation, and not to limit constitutionally protected activity.

117.11.B Definitions

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

SOLICITATION , as used in this section, means any plea made in person where:

a) A person by vocal appeal requests an immediate donation of money or other item from another person; or

b) A person verbally offers or actively provides an item or service of little or no value to another in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

However, solicitation shall not include the act of passively standing, sitting, or engaging in a performance of art with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

[136] Penalty, see SEC. 110.99

CONVENIENCE STORE , as used in this section, means a retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with them, with a gross floor area of less than seven thousand five hundred (7,500) square feet.

PUBLIC ENTERTAINMENT VENUE means a place that is open to the public (whether or not upon payment of a fee for admission and whether or not the management reserves the right to exclude individual members of the public) for entertainment but does not include a shop. The term includes, but is not limited to, cinemas, theatres, concert halls, electronic games centers, indoor sports centers (including a bowling alley), art galleries, museums, and premises upon which any display or exhibition promoted as such is conducted.

SHOP means premises used for the sale or displaying or offering for sale of goods or food to a member of the public, whether on a wholesale or retail basis and includes a warehouse (other than where the premises is temporarily used as a public entertainment venue).

117.11.C Prohibitions

117.11.C.1

It shall be unlawful in a public place to engage in an act of solicitation when the person being solicited is present at any of the following locations:

a) In a restroom.

b) At a bus stop or shelter.

c) At or within ten (10) feet in any direction from a crosswalk.

d) In any public transportation vehicle or public transportation facility.

e) In a vehicle which is parked or stopped on a public street or alley.

f) In a sidewalk caf or an outdoor seating area of a restaurant.

g) In a line waiting to be admitted to a commercial or government establishment.

h) Within eighty (80) feet in any direction from an automatic teller machine or entrance to a bank, other financial institution, or check cashing business.

i) On any park land, or in any park, playground, or public entertainment venue, including within fifty (50) feet of entry ways or exits thereto.

j) At or within ten (10) feet in any direction of the property on which is located a gasoline filling station.

k) At or within ten (10) feet in any direction of the property on which is located a liquor store, including any establishment with an off-sale license under Chapter 111 of this code, and not including any establishment with an on-sale license.

l) At or within ten (10) feet in any direction of the property on which a convenience store is located.

m) In the Crookston Sports Center, including within fifty (50) feet of entry ways or exits thereto.

117.11.C.2

It shall be unlawful in a public place to engage in an act of solicitation in a manner that incorporates any of the following methods:

a) Intentionally touching or causing physical contact with the solicited person without that persons consent.

b) Intentionally blocking the path of the solicited person, or the entrance to any building or vehicle.

c) Following behind, ahead or alongside a person who walks away from the solicitor after being solicited, with the intent to intimidate or continue solicitation.

d) Using obscene, profane, or abusive language or gestures toward the solicited person.

e) Approaching the solicited person in a manner that:

   i) Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the persons possession; or

   ii) Is intended to or is likely to intimidate a reasonable person into responding affirmatively to the solicitation.

f) Solicitation while under the influence of alcohol or drugs.

g) Soliciting in a group of two (2) or more persons.

117.11.C.3

It shall be unlawful in a public place to engage in an act of solicitation on any day after sunset, or before sunrise.

117.11.D Penalties

Each act of solicitation prohibited by this section shall constitute a separate violation of this section. Each violation shall be punishable as a misdemeanor.

117.11.E Severance

If any section, sentence, clause, or phrase of this law is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way effect the validity of any remaining portions of this law.

Chapter 118: Taxicabs

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118.01 Definitions

FOR HIRE For remuneration or compensation of any kind promised, paid or given to or received by a person for the transportation of persons or property within and upon the city streets and includes compensation obtained by an operator, driver or other persons indirectly by subtraction of the purchase price or addition to the selling price of property transported, when the purchase or sale of the property is not a bona fide purchase or sale.

OPERATOR Any person, partnership, corporation or other legal entity to whom a license has been issued to engage in the business of operating a taxicab or a personal transportation vehicle.

TAXICAB AND PERSONAL TRANSPORTATION VEHICLES A motor vehicle engaged in the for hire transportation of property or passengers, in form of fare or other remuneration, having a seating capacity of seven persons or less, including the driver, and not operated on a fixed route.

MOTOR CARRIERS A person engaged in the for-hire transportation of property or passengers.

118.02 License Required

It is unlawful for any person or operator to drive or operate a taxicab or personal transportation vehicle within the City without a license issued by the City for the vehicle to be operated as a taxicab or personal transportation vehicle. The owner, operator and driver are equally culpable and may be charged criminally under this chapter.

118.03 Application for License

An application for a taxicab or personal transportation vehicle license shall be filed with the Clerk on forms provided by the Clerk and such application shall be verified under oath and shall contain the information required in the following paragraphs.

A) The name and address of the applicant, and company name, if any, under which applicant intends to operate.

B) The location from which such taxicabs or personal transportation vehicles shall be operated.

C) A complete description of each vehicle to be operated including the license number, the vehicle identification, the color of the vehicle, make, model and year.

D) Before issuing a taxicab license, the applicant shall present to the Council a certificate signed by a competent and experienced mechanic showing that the taxicab conveyance is in good mechanical condition, that it is fairly safe for transportation of passengers and that it is in neat and clean condition. The similar certificate may be required from time to time during the license. In lieu of the certificate, the Council makes up the report of the Chief of Police relative thereto.

E) The employment history of the applicant.

F) Whether or not the applicant has ever been convicted of a felony.

G) Such other information as the city may from time to time require.

118.04 Police Investigation

Prior to submitting an application for a taxicab or personal transportation vehicle license to the Council, the Clerk shall request an investigation and report from the Police Department as to the facts stated in the application and to the applicants traffic and police record.

118.05 Council Procedure

The Clerk and the Chief of Police shall meet and review the police record of the applicant. The Clerk shall submit to the Council at a regular meeting thereof the application and any information deemed important by the Clerk or the Chief of Police, and any member of the public shall have an opportunity to be heard on the granting or refusal to grant a license. If the Council finds and determines that the public interest is not served by the issuance of a license to the applicant, the applicant may not make reapplication for a license to operate a taxicab or personal transportation vehicle in the City until six months thereafter.

118.06 License Fee

If the Council approves the license on such application, a license shall be issued to the applicant upon the payment of the required license fee as established by Council Resolution. A new license for each succeeding year may be issued upon the payment of a like fee unless the license has been revoked as provided herein.

118.07 Revocation of License

The license of any operator under this chapter may be revoked for failing or refusing to comply with the provisions of this chapter, or for the failure of any driver of a taxicab or personal transportation vehicle to comply with the provisions of this chapter, or for the failure of any driver of a taxicab or personal transportation vehicle to comply with any local, state, or federal law while driving a taxicab or personal transportation vehicle. Such revocation will be pursuant to a hearing before the Council at which the license holder shall have an opportunity to present evidence on his or her behalf.

118.08 Inspection of Vehicles and Equipment

Every holder of a license under this chapter shall keep such vehicle in good serviceable condition so that each vehicle may be safely operated at all times without endangering the safety or property of the passengers carried or other persons. The licensee shall annually have the vehicle inspected by a competent and experienced mechanic and shall produce a record of such inspection to authorized city personnel during regular business hours. The license for the operation of any vehicle not kept in a safe and serviceable condition may, upon ten days mailed notice, in the discretion of the City Council, be revoked.

118.09 Designation of Taxicabs or Personal Transportation Vehicles

Each taxicab or personal transportation vehicle shall bear on the exterior surface of the body in letters not less than two inches in height the name of the owner or the company name under which the owner operates, and in addition may bear an identification design approved by the Council. No owner whose identifying design, monogram or insignia to be used thereon shall conflict with or imitate any other

color scheme, identifying design, monogram or insignia used on a vehicle or vehicles already operating under the chapter, in such a manner as to be misleading or tend to deceive or default the public, and further providing that if, after a license has been issued for a taxicab or personal transportation vehicle hereunder, identifying design, monogram or insignia thereof is changed so as to be in conflict with or imitate any identifying design, monogram or insignia used by any other person, owner or operator, in such manner as to be misleading or tend to deceive the public, the license covering such taxicab or personal transportation vehicle may be revoked.

118.10 License Issuance and Display

All licenses shall be issued for specific conveyances, except as otherwise herein provided. License tags, including the number and year for which issued, shall be plainly visible on the dashboard of the conveyance. Both sides of every licensed taxicab, when in use, shall be plainly and permanently marked as such with a painted sign or appurtenance showing the full or abbreviated name of the licensed operator.

118.11 Rates

Each applicant shall file with the Clerk, before a taxicab or personal transportation vehicle license is issued or renewed, a schedule of proposed maximum rates to be charged by the applicant during the licensed period for which the application is made. Such schedule shall be posted in a conspicuous place in the taxicab or personal transportation vehicle in full view of passengers riding therein.

118.12 Drivers of Taxicabs and Personal Transportation Vehicles

Qualifications for drivers of taxicabs or personal transportation vehicles are as follows:

118.12.A

Operators shall maintain the following standards for all drivers of taxicabs and personal transportation vehicles:

118.12.A.1

Each driver must:

a) Possess a valid drivers license to operate a motor vehicle in the State of Minnesota, which is valid for the class of vehicle driven;

b) Be at least 18 years of age; and

c) For the past three years:

   i) Have not had a drivers license canceled under M.S. §171.14, as it may be amended from time to time, revoked under M.S. §171.17, as it may be amended from time to time, or suspended under M.S. §171.18, clause (2), (3), (4), (5), (7) or (11), as it may be amended from time to time;

   ii) Have a driving record clear of convictions for operating a motor vehicle or motorcycle without insurance as required by M.S. §169.797, it may be amended from time to time; and

iii) Have a driving record clear of convictions for driving a motor vehicle without a valid current license for the class of vehicle driven; and

iv) Have a driving and criminal record clear of convictions for driving under the influence of alcohol or a controlled substance under M.S. §169A, as it may be amended from time to time, or a chapter in conformity with that section, of alcohol-related driving by commercial vehicle drivers under M.S. §169A.20, as it may be amended from time to time, and of drivers license revocations under M.S. §169A.20, as it may be amended from time to time.

118.12.A.2

Each driver must also have a criminal record clear of convictions of crimes and anticipatory crimes against persons and crimes of anticipatory crimes reasonably related to providing transportation services. For purposes of this part, criminal record means a conviction in which the date of discharge from the criminal sentence imposed is less than 15 years from the date of application. The following Minnesota offenses or equivalent offenses from another state or jurisdiction are considered crimes against persons, or reasonably related to providing transportation services, or both:

1) Felony level conviction of M.S. §609.17, attempts;
2) Felony level conviction of M.S. §609.175, conspiracy;
3) M.S. §609.185, murder in the first degree;
4) M.S. §609.19, murder in the second degree;
5) M.S. §609.195, murder in the third degree;
6) M.S. §609.20, manslaughter in the first degree;
7) M.S. §609.205, manslaughter in the second degree;
8) M.S. §609.21, criminal vehicular homicide and injury;
9) M.S. §609.215, suicide;
10) M.S. §609.221, assault in the first degree;
11) M.S. §609.222, assault in the second degree;
12) M.S. §609.223, assault in the third degree;
13) M.S. §609.2231, assault in the fourth degree;
14) Felony level violation of M.S. §609.224, assault in the fifth degree;
15) M.S. §609.2247, domestic assault by strangulation;
16) M.S. §609.228, great bodily harm caused by distribution of drugs;
17) M.S. §609.23, mistreatment of persons confined;
18) M.S. §609.2325, criminal abuse;
19) M.S. §609.235, use of drugs to injure or facilitate crime;
20) M.S. §609.24, simple robbery;
21) M.S. §609.245, aggravated robbery;
22) M.S. §609.25, kidnapping;

23) M.S. §609.255, false imprisonment;

24) M.S. §609.265, abduction;

25) M.S. §609.2661, murder of an unborn child in the first degree;

26) M.S. §609.2662, murder of an unborn child in the second degree;

27) M.S. §609.2663, murder of an unborn child in the third degree;

28) M.S. §609.2664, manslaughter of an unborn child in the first degree;

29) M.S. §609.2265, manslaughter of an unborn child in the second degree;

30) M.S. §609.267, assault of an unborn child in the first degree;

31) M.S. §609.2671, assault of an unborn child in the second degree;

32) M.S. §609.2672, assault of an unborn child in the third degree;

33) M.S. §609.268, injury or death of an unborn child in the commission of a crime;

34) M.S. §609.322, solicitation, inducement, and promotion of prostitution;

35) M.S. §609.324, patrons, prostitutes, housing individuals engaged in prostitution;

36) M.S. §609.33, disorderly house;

37) M.S. §609.342, criminal sexual conduct in the first degree;

38) M.S. §609.343, criminal sexual conduct in the second degree;

39) M.S. §609.344, criminal sexual conduct in the third degree;

40) M.S. §609.345, criminal sexual conduct in the fourth degree;

41) M.S. §609.3451, criminal sexual conduct in the fifth degree;

42) M.S. §609.352, solicitation of children to engage in sexual conduct;

43) M.S. §609.365, incest;

44) M.S. §609.377, malicious punishment of a child;

45) M.S. §609.378, neglect or endangerment of a child;

46) M.S. §609.498, tampering with a witness;

47) M.S. §609.561, arson in the first degree;

48) M.S. §609.582, Subd. 1, burglary;

49) Gross Misdemeanor or Felony level conviction of M.S. §617.23, indecent exposure;

50) M.S. §617.241, obscene materials and performances;

51) M.S. §617.243, indecent literature, distribution;

52) M.S. §617.246, use of minors in sexual performance;

53) M.S. §617.247, possession of pornographic work involving minors;

54) M.S. §617.293, harmful materials; dissemination and display to minors; and

55) Felony convictions under M.S. Ch. 152, prohibited drugs.

118.12.B Operators Responsibility

Before using or hiring a driver the operator shall provide sufficient information regarding the drivers identity to allow the Crookston Police Department to determine whether the driver has a valid drivers license to operate a motor vehicle in the State of Minnesota for the class of vehicle driven and must conduct a review of the driving and criminal record of the driver. The operator shall provide this information annually to the Crookston Police Department for each person continuing employment as a driver. The driving and criminal record review must include an examination of the records of the Department of Public Safety, Division of Driver and Vehicle Services to determine if the driver meets the standards of Section 118.12 (A)(1). The review must also include an examination of the conviction records of the Minnesota Bureau of Criminal Apprehension to determine if the driver has a criminal record of convictions for crimes listed in Section 118.12 (A)(1).

118.12.C Complaint Records

Operator shall keep a record of complaint, report or allegation of misconduct made against a driver it uses or employs. The record must contain a copy of the complaint or report or a detailed written summary of the allegation. Operator shall investigate the accuracy of the complaint, report, or allegation and shall include a summary of the investigation and resulting action taken, if any, in the record. These records must be included in the drivers file or in a separate file kept by the operator.

118.12.D Liability Insurance Required

No license to operate a taxicab or personal transportation vehicle shall be issued by the city until a certificate of insurance has been filed with the Clerk establishing that there is in full force and effect a liability policy issued by an insurance company authorized to do business in the State of Minnesota for each vehicle authorized to be operated by the applicant in the amount of $500,000 for bodily injury to or death of any one person in a single accident, subject to a maximum of $500,000 for injuries to two or more persons which are sustained in any one accident and $100,000 for the destruction of or damage to property in a single accident. In addition, the applicant shall provide uninsured and underinsured motorist coverage and basic economic loss benefits as outlined under M.S. §65B, as it may be amended from time to time. An applicant shall obtain a certificate of insurance for each vehicle that is operated. The applicants insurer shall mail the certificate of insurance to the Clerk, City of Crookston, 124 North Broadway, Crookston, MN 56716. The certificate must show the vehicles covered by the policy and the policy limits. Each policy shall provide that the city shall receive at least ten days written notice prior to cancellation of such policy.

Chapter 119: Tobacco Sales

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119.01 Purpose

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco and tobacco-related devices, and the sales, possession and use are violations of both state and federal laws; and because studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reached the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter is intended to regulate the sale, possession and use of tobacco and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious affects associated with the illegal use of tobacco and tobacco-related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in M.S. §144.391, as it may be amended from time to time.

119.02 Definitions

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

COMPLIANCE CHECKS The system the city uses under this chapter. COMPLIANCE CHECKS shall involve the use of minors as authorized by this chapter. COMPLIANCE CHECKS shall also mean the use of minors who attempt to purchase tobacco or tobacco-related devices for educational, research and training purposes, as authorized by state and federal laws. COMPLIANCE CHECKS may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco and tobacco-related devices.

MINOR Any natural person who has not yet reached the age of 18 years.

MOVABLE PLACE OF BUSINESS Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

SELF-SERVICE The open display of tobacco or tobacco-related devices in any manner where any person has access to the tobacco or tobacco-related devices without the assistance or intervention of the licensee or the licensees employee. The assistance or intervention entails the actual physical exchange of the tobacco or tobacco related device between the customer and the licensee or employee. Self-service does not include vending machines.

TOBACCO Any substance or item containing tobacco leaf, including, but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobaccos; cheroots; stogies; perique; granulated; plug cut; crimp cut, ready-rubbed; and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in the manner as to be suitable for chewing, sniffing or smoking.

TOBACCO-RELATED DEVICES Any tobacco as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco.

VENDING MACHINE Any mechanical, electric or electronic, or other type of device which dispenses tobacco or tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco or tobacco-related device.

119.03 License Required

It is unlawful for any person, directly or indirectly, to keep for retail sale, sell at retail or offer to sell at retail any tobacco or tobacco-related device unless a license to do so is first obtained from the city. Separate licenses shall be issued for the sale of tobacco or tobacco-related devices at each fixed place of business and no license shall be issued for a movable place of business.[137]

119.04 Prohibited Sales Methods

It is unlawful for a licensee to sell or distribute tobacco or tobacco-related devices by vending machine unless minors are at all times prohibited from entering the licensed establishment. It is unlawful for a licensee to sell or distribute tobacco or tobacco related devices by self-service unless the licensed establishment generates 90% or more of its revenues from the sale of tobacco and minors are at all times prohibited from entering the licensed establishment. It is unlawful for any person to permit or assist with the unlawful sale or distribution of tobacco or tobacco related devices by vending machine or self-service upon property the person owns or controls.[138]

119.05 Compliance Checks and Inspections

All licensed premises shall be open to inspection by local law enforcement or other authorized city officials during regular business hours. From time to time, but at least twice per year, the city shall conduct compliance checks by engaging, with written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter the licensed premises to attempt to purchase tobacco or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco or tobacco-related devices when the items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minors age and all minors lawfully engaged in a compliance check shall answer all questions about the minors age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this chapter shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

119.06 Illegal Acts

Unless otherwise provided, the following acts are a violation of this chapter.

119.06.A Illegal Sales

It is unlawful for any person to sell or otherwise provide any tobacco or tobacco-related device to a minor.

119.06.B Illegal Possession

It is unlawful for any minor to have in his or her possession any tobacco or tobacco-related device. This division shall not apply to minors lawfully involved in a compliance check.

[137] Penalty, see SEC. 119.99
[138] Penalty, see SEC. 119.99

119.06.C Illegal Use

It is unlawful for any minor to smoke, chew, sniff or otherwise use any tobacco or tobacco-related device.

119.06.D Illegal Procurement

It is unlawful for any minor to purchase or attempt to purchase or otherwise obtain any tobacco or tobacco-related device and it is unlawful for any person to purchase or otherwise obtain the items on behalf of a minor. It is further unlawful for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco or tobacco-related device. This division shall not apply to minors lawfully involved in a compliance check.

119.06.E Use of False Identification

It is unlawful for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.[139]

119.07 Exceptions and Defenses

Nothing in this chapter shall prevent the providing of tobacco or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

119.08 Violations

119.08.A Notice

Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

119.08.B Hearings

If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

119.08.C Hearing Officer

The City Administrator shall appoint the hearing officer.

119.08.D Decision

If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted, accused violator.

[139] Penalty, see SEC. 119.99

119.08.E Appeals

Appeals of any decision made by the hearing officer under this chapter shall be filed in the District Court for the County of Polk.

119.08.F Enforcement Alternatives

Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this section. If the city elects to seek misdemeanor prosecution, no administrative penalties shall be imposed on the defendant in the prosecution. Nothing in this chapter shall prohibit the city from seeking criminal prosecution or imposing administrative penalties on both the licensees employee and the licensee.

119.08.G Continued Violation

Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

119.99 Penalty

119.99.A Licensees

Any licensee found to have violated this chapter, or whose employees shall have violated this chapter, shall be charged an administrative fine of at least $75 for a first violation of this chapter; at least $200 for a second offense at the same licensed premises within a 24-month period; and at least $250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

119.99.B Other Individuals

Other individuals, other than minors regulated by division (C) of this section, found to be in violation of this chapter, shall be charged an administrative fee of at least $50.

119.99.C Minors

Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco or tobacco-related devices, shall be subject to a penalty or penalties as determined by the appropriate court having jurisdiction over the violations occurring within the city. The city shall consult with interested educators, parents, children and representatives of the court system to develop alternate penalties for minors who purchase, possess and consume tobacco. The city and the interested persons shall consider a variety of options, including, but not limited to, tobacco free education programs, notice to schools, parents, community service and other court diversion programs.

Chapter 120: Display, Sale, Storage, Possession and Use of Fireworks

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Cross-Reference:
Chapter 130: General Offenses, see Section 130.01
References:
City of Crookston 1986 Code, Chapter 10, Section 10.10: Dangerous Weapons and Articles
Minnesota State Statutes 624 Subsections 624.20 through 624.25
Consumer Product Safety Commission Standards 16 CFR 1500 and 16 CFR 1507
Department of Transportation Requirement 49 CFR 170-173
Bureau of Alcohol Tobacco and Firearms Requirement 27 CFR 55

120.01 Purpose

Due to the inherent risks of fire and injury to persons and property associated with the display, sale, possession and use of fireworks, the City Council has determined that it is necessary and in the interest of public health, safety and welfare to establish reasonable regulations concerning fireworks.

120.02 Definition

For purposes of this ordinance, "consumer fireworks" are defined as: Wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are non-explosive and non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes, and glow works, smoke devices, or trick noisemakers which include paper streamers, paper poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

120.03 Possession and Sale of Fireworks

120.03.A

Fireworks are regulated by Minnesota Statutes 624.20 through 624.25 inclusive, which are adopted herein by reference.In addition to theses state laws, all display, sales, storage, and use of fireworks shall comply with this Section.

120.03.B

No Person shall do any of the following without obtaining a City license:

1) A license must be applied for and approved prior to storing or selling any fireworks.

2) A permit must be applied for and approved 15 days prior to making a public display of fireworks.

120.04 License Provisions

Sale and/or Storage of Fireworks: It is unlawful for any person to sell, offer for sale, expose for sale, sell at retail or wholesale or store any consumer fireworks in the City of Crookston without a City license.

120.05 License Application

120.05.A

The application for a license to store or sell fireworks shall be made to the City Clerk's office.The applicant shall completely fill out and submit an application for a consumer fireworks license prepared by the City of Crookston Clerk in conjunction with the Crookston Fire Department.

120.05.B

Information to be submitted as part of the license application includes, but is not necessarily limited to the following information:

1) Name, address and telephone number of the applicant.

2) Address of location where the fireworks will be sold.

3) A list of fireworks that will be sold. The list must include the name, weight and quantity of fireworks, Tier II Material Safety Data Sheets.

4) Quantity of the fireworks that will be stored on the premises.

5) A floor plan designating the area where the fireworks will be sold and/or stored.

6) A letter of approval from the property owner, if different from the applicant.

120.05.C

Prior to the issuance of a license, the premises must be inspected and approved by the Crookston Fire Department.

120.06 Conditions of License

A license to sell consumer fireworks shall be issued subject to the following conditions:

A) The license is non-transferable, either to a different person or location.

B) The license must be publicly displayed on the licensed premises.

C) The premises are subject to inspection by the Crookston Fire Department during normal business hours.

D) The premises for which a license will be issued must be located in a zoning district permitting retail sales.

E) Storage of consumer fireworks on the premises must be in compliance with the International Fire Code.

F) The storage and/or retail sales of fireworks in a non-permanent structure shall be conducted in compliance with NFPA 1124.

G) For transient sales of fireworks a license must be obtained according to Chapter 120.05 of the City Code.

H) The licensee shall keep two (2) 2 $\frac{1}{2}$ gallon water type portable fire extinguishers within 15 feet of the storage and display areas.

I) A list of all fireworks displayed for sale and stored on the property must be posted in a conspicuous location near the display/storage area.The list shall include the name, weight and quantity of fireworks and be accompanied by the Tire II Material Safety Data Sheets.

J) No smoking shall be conducted within 50 feet of the consumer fireworks retail area.

K) The Licensee shall prominently post "No Smoking" signs.

L) The discharge of fireworks shall be prohibited within (100) feet of any location in which fireworks are being sold or stored.

M) In buildings withoutan approved automatic sprinkler system, fireworks sales displays and/or storage shall be limited to fifty (50) lbs. net pyrotechnic composition or (200) lbs. gross weight, if the pyrotechnic composition weight is not known. In buildings with approved automatic sprinkler systems the quantity limits can be doubled.

120.07 License Bond

Applicant shall file with the application a certificate of insurance, showing liability insurance coverage in the amount of $1,000,000 per occurrence to cover Licensee's intentional and negligent acts relative to the sale, possession or use of fireworks. Such insurance certificate shall indicate that the City of Crookston shall receive notice at least thirty days prior to cancellation or termination of the coverage.

120.08 License Fee

The annual license fee for the sale of fireworks shall be set by resolution by the City Council. See Fee Schedule.

120.09 License Denial, Suspension and Revocation

A consumer fireworks license may be denied, suspended or revoked by the City Council if a provision of the Chapter is violated.

120.10 Permit Provisions

No Person shall do any of the following without obtaining a city permit:

A) Public display of fireworks/pyrotechnic special effects; It is unlawful for any person to conduct a public pyrotechnic display in the City of Crookston without a city permit.

120.11 Permit Application

120.11.A

The application for a permit to conduct a public pyrotechnic display in the City of Crookston shall be made to the City Clerk's office.The applicant shall completely fill out and submit an application to conduct a public pyrotechnic display prepared by the City of Crookston Clerk in conjunction with the Crookston Fire Department.

120.11.B

Information to be submitted as part of the permit application includes, but is not necessarily limited to the following information:

1) Name of applicant (Sponsoring Organization), address and telephone number of the applicant.
2) Name of authorized agent of applicant.
3) Name of supervising agent. (MN state certified pyrotechnic operator)
4) Date, time and location of display. (indoor display requires State Fire Marshall approval)
5) Manner and place of storage of fireworks/pyrotechnic special affects prior to use.
6) Type and number of fireworks/pyrotechnic special affects to be discharged. The list must include number and size.
7) Names and birthdates of all assistants that will be participating in display.
8) Proof of a bond or insurance in the amount of at least

9) A diagram of the ground, or facilities at which the display will be held.

10) A letter of approval from the property owner, if different from the applicant.

120.11.C

Prior to the issuance of a permit, the area of display must be inspected and approved by the Crookston Fire Department.

120.12 Conditions of Permit

A permit to display fireworks/pyrotechnic special affects shall be issued subject to the following conditions:

A) The permit is non-transferable, either to a different person or location.

B) The permit must be completed and returned at least 15 days prior to date of display.

C) All requests for changes (adding fireworks, etc.) must be approved in advance.All requests for changes must be submitted to the fire chief at least 24 hours prior to the display.

D) All displays are conducted in accordance with applicable laws, codes, regulations, and guidelines relating to fireworks.

E) Ensure local fire chief has been contacted about standby fire apparatus and personnel.

F) Provide monitors around discharge site.

G) Provisions for crowd control.

H) A sufficient number of trained assistants are on hand.

I) Proper protective gear is worn by all personnel involved with the display.

J) Sufficient portable fire extinguishers must be present at the display site.

K) A written report of all injuries, fires, or unsafe products observed must be reported to the local fire chief and State Fire Marshall within 10 days of the display.

L) Smoking and open flames are prohibited within 50 feet of the aerial shell storage area. NO SMOKING OR OPEN FLAME signs must be conspicuously posted in the area.

M) Operators and attendants must use only flashlights or electric lighting for artificial illumination.

N) Fireworks must not be left unattended or allowed to become wet at the display site.

O) If the local fire chief or pyrotechnic operator determines that there is a lack of crowd control or that the crowd is in danger, the display must be immediately discontinued. If at any time winds or wet weather create a danger the display must be postponed until conditions are acceptable to the fire chief.

P) The entire firing range must be inspected immediately following a display and prior to allowing public access for the purpose of locating unexploded aerial shells.

120.13 Permit Bond

Applicant shall file with the application a certificate of insurance, showing liability insurance coverage in the amount of $1,000,000 per occurrence to cover Licensee's intentional and negligent acts relative to the sale, possession or use of fireworks. Such insurance certificate shall indicate that the City of Crookston shall receive notice at least thirty days prior to cancellation or termination of the coverage.

120.14 Permit Fee

The permit fee for the public display of fireworks shall be set by resolution by the City Council. See Fee Schedule.

120.15 Permit Denial, Suspension and Revocation

120.15.A

A consumer fireworks license may be denied, suspended or revoked by the City Council if a provision of the Chapter is violated.

120.15.B

It shall be unlawful to do any of the following:

1) Consumer fireworks shall not be used within one hundred (100) feet of any building in which fireworks are sold or stored.

2) Consumer fireworks shall not be sold or distributed to persons under the age of eighteen (18) years, any person who is obviously intoxicated, chemically impaired or incompetent, or any person who fails to present proper age identification.

3) Consumer fireworks shall not be used indoors.

4) Consumer fireworks shall not be used on public property. Fireworks shall not be discharged along a parade route prior to, during or after any parade, or at any place of public assembly, park, or government property except such discharge of fireworks may be permitted in connection with an officially sanctioned public celebration.

5) Consumer fireworks shall not be thrown or tossed at any person, animal, vehicle, or other thing or object.

6) The Fire Chief may ban fireworks for any period of time for any public safety reason.

120.16 A Violation of this Section is a Misdemeanor

Fireworks that are kept possessed or stored in violation of state statutes or of this section may be confiscated and destroyed. The costs associated with disposal shall be paid by the violator and/or be assessed back to the property on which the fireworks are being stored, displayed or sold.

Title XIII: General Offenses

Chapter 130: General Offenses

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Cross-Reference:
Chapter 120: Display, Sale, Storage, Possession, and Use of Fireworks

130.01 Use of Weapons and Fireworks

130.01.A Acts Prohibited

It is unlawful for any person to:

1) Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another;

2) Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another;

3) Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club;

4) Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically;

5) Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another;

6) Sell or have in his or her possession any device designed to silence or muffle the discharge of a firearm;

7) Permit, as a parent or guardian, any child under 14 years of age to handle or use, outside of the parents or guardians presence, a firearm or air gun of any kind, or any ammunition or explosive;

8) Furnish a minor under 18 years of age with a firearm, air gun, ammunition, or explosive without the written consent of his or her parent or guardian or the Police Department; or

9) Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck or sharp stud. For the purposes of this division, a throwing star means a circular metallic device with any number of points projecting from the edge; a nun chuck means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod; and a sharp stud means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed.

130.01.B Exception

Nothing in division (A) of this section shall prohibit the possession of the articles therein mentioned if the purpose of the possession is for public exhibition by museums or collectors of art.

130.01.C Discharge of Firearms and Explosives

It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a BB gun.

130.01.D Exception

Nothing in division (C) of this section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his or her duty, or to a person in the lawful defense of his or her person or family. This section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

130.01.E Possession and Sale of Fireworks

It is unlawful for any person to sell, have in possession for the purpose of sale, except as allowed in division (D) of this section, any firecrackers, sky rockets or other fireworks.

130.01.F Use of Bow and Arrow

It is unlawful for any person to shoot a bow and arrow except in the physical education program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range or other places as authorized by the Council.[140]

130.02 Consumption and Possession of Alcoholic Beverages on Public Property and Private Parking Lots to which the Public has Access

It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage as that term is defined in Chapter 111 on any city park, street, public property, or private parking lot to which the public has access, except on the premises when and where permission has been specifically granted or licensed by the Council. Provided, that this section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of the vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.[141]

130.03 Alcoholic Beverages in Certain Buildings and Grounds

It is unlawful for any person to introduce upon, or have in his or her possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.[142]

130.04 Curfew

130.04.A Purpose and Findings

The Council has determined that there has been an increase in juvenile violence, vandalism, gang activity and crime by persons under the age of 18 in the city. Persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime. The city has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidents of juvenile criminal activities. A curfew for those under the age of 18 is in the interest of public health, safety and general welfare and will help to attain the foregoing objectives.

[140] Penalty, see SEC. 130.99
[141] Penalty, see SEC. 130.99
[142] Penalty, see SEC. 130.99

130.04.B Definitions

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

CURFEW HOURS 11:00 p.m. - 6:00 a.m. Sunday through Thursday and 12:01 a.m. - 6:00 a.m. Friday and Saturday.

EMERGENCY An unforeseen combination of circumstances or the resulting state that calls for immediate action; the term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

ESTABLISHMENT Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

GUARDIAN A person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by a court.

MINOR Any person under 18 years of age.

OPERATOR Any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

PARENT A person who is a natural parent, adoptive parent or step-parent of another person, or at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

PUBLIC PLACE Any place to which the public or a substantial group of the public has access including, but not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

REMAIN To linger or stay, or fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

SERIOUS BODILY INJURY Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

130.04.C Restrictions

130.04.C.1

It is unlawful for any minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

130.04.C.2

It is unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control or supervision allow, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours. The term knowingly includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

130.04.C.3

It is unlawful for any owner, operator or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

130.04.D Exceptions

130.04.D.1

The following constitute valid exceptions to the operation of the curfew.

a) The minor was accompanied by the minors parent or guardian;

b) The minor was on an errand at the direction of the minors parent or guardian, without any detour or stops;

c) The minor was in a motor vehicle involved in interstate travel;

d) The minor was engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

e) The minor was involved in an emergency;

f) The minor was on the sidewalk abutting the minors residence or abutting the residence of a neighbor located immediately adjacent to the minors residence if the neighbor did not complain to the Police Department about the minors presence;

g) The minor was attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor;

h) The minor was exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

i) The minor was married or had been married.

130.04.D.2

It is a defense to prosecution under this section that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

130.04.E Enforcement

Before taking any enforcement action under this section, a police officer must ask the apparent offenders age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and, based on any response and other circumstances, no defense in division (D) is present.

130.05 Disorderly Conduct[143]

It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following:

A) Engage in brawling or fighting.

B) Disturb an assembly or meeting, not unlawful in its character.

C) Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others.

D) Willfully and lewdly expose his or her person or the private parts thereof, or procure another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency.

E) Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter the waters without being garbed in a bathing suit sufficient to cover his or her person and equal to the standards generally adopted and accepted by the public.

F) Urinate or defecate in a place other than:

   1) If on public property then in a plumbing fixture provided for that purpose;

   2) If on the private property of another then in a plumbing fixture provided for that purpose; or

   3) If on private property not owned or controlled by another, then within a building.

G) Cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn.

H) Use a sound amplifier upon streets and public property without prior written permission from the city.

I) Use a flash or spotlight in a manner so as to annoy or endanger others.

J) Cause defacement, destruction, or otherwise damage to any premises or any property located thereon.

K) Strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for the purpose.

L) Enter any motor vehicle of another without the consent of the owner or operator.

M) Fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his or her official duty, nor shall it include the spouse, children, employee or tenant of the owner or occupier.

[143] Penalty, see SEC. 130.99

130.06 Noisy Parties

130.06.A

It is unlawful for any person or persons to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of the nature as to disturb the peace, quiet or repose of other persons. Any owner or person in lawful possession or control of the private lands who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this section.

130.06.B

It is unlawful for any person or persons to congregate on any private lands of another because of, or participate in, any party or gathering of people in the absence of the owner of the private lands being present, without first having obtained written permission from the landowner or other person in lawful possession of private lands. The written permission shall at all times be in the possession of one or more persons at the site of the congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use. Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

130.06.C

A violation of division (A) or (B) of this section shall give a peace officer the authority to order all persons present, other than persons identifying themselves as the owner or person in lawful possession or control of the land, to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a peace officer shall be guilty of a violation of this section.[144]

130.07 Trespass

130.07.A Definitions

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

ALCOHOL Beer, wine or liquor as defined in Chapter 111 of this code.

CONTROLLED SUBSTANCE Has the same meaning given in Minnesota Statutes.

INVITATION The landowner or other person in lawful possession of the land is then and there present and states that he or she has given his or her consent, endorsement, ratification or permission; or, that the landowner or other person in lawful possession of the land has executed a written document giving his or her consent, endorsement, ratification or permission for those present to be upon the land, which written document contains the signature of the owner or possessor of the land and the date of permitted entry, is at all times in the possession of a person present, and displayed to a peace officer immediately upon request.

MOTOR VEHICLE Has the same meaning given in Minnesota Statutes.

[144] Penalty, see SEC. 130.99

130.07.B Unlawful Acts

130.07.B.1

It is unlawful for any person or persons to enter without invitation onto the private land of another for the purpose of consuming alcohol or a controlled substance.

130.07.B.2

It is unlawful for any person or persons to bring a motor vehicle onto the private land of another without invitation for the purpose of facilitating the consumption of alcohol or a controlled substance.

130.07.B.3

It is unlawful for any person to represent, orally or in writing, that he or she is the owner or in lawful possession of the land upon which entry is made, unless he or she is actually the owner or possessor.

130.07.C Purpose[145]

In determining the purpose of an entry without invitation by a person or motor vehicle, factors to be considered include but are not limited to the following:

1) Time of day;
2) Presence of containers intended to contain or containing alcohol;
3) Presence of equipment used to dispense alcoholic beverages;
4) Presence of paraphernalia containing identifiable residues of a controlled substance;
5) Noise level;
6) Lighting;
7) Identified physiological responses; and
8) Conduct of persons in the presence of a peace officer.

130.08 Exposure of Unused Container

It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.[146]

130.09 Radio and Television Interference

It is unlawful for any person to maintain, use or operate any apparatus or device whether electrical, mechanical or of any other type, so as to cause interference with radio or television reception. This section shall not apply to electro-medical devices provided that they are equipped so far as reasonably possible with apparatus tending to reduce the interference.[147]

[145] Penalty, see SEC. 130.99
[146] Penalty, see SEC. 130.99
[147] Penalty, see SEC. 130.99

130.10 Social Host Liability

130.10.A Purpose and Findings

The Crookston City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Crookston City Council finds that:

1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health and public safety requiring prevention or abatement.

2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.

5) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

130.10.B Authority

This section is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

130.10.C Definitions

For purposes of this section, the following terms have the following meanings:

ALCOHOL Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE Alcoholic beverage means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is used for beverage purposes either alone or when diluted, mixed, or combined with other substances.

EVENT or GATHERING Event or gathering means any group of three or more persons who have assembled or gathered together for a social occasion or activity at a residence or premises.

HOST Host means to permit an event or gathering where one or more minors consume or possess any alcohol or alcoholic beverage on property owned or controlled by the person. (5) Parent. Parent means any person having legal custody of a juvenile:

a) As natural, adoptive parent, or step-parent;

b) As a legal guardian; or

c) As a person to whom legal custody has been given by order of the court.

PERSON Person means any individual(s) responsible for an event or gathering including, but not limited to, the individual(s) who owns, rents, leases, or otherwise has controlled the premises where the event or gathering takes place, the individual(s) in charge of the premises, and/or the individual(s) who organized the event or gathering. If the residence or premises is rented, the landlord is not covered by this ordinance unless landlord othen/vise meets this definition.

POSSESS Possess means care, custody, dominion and control of liquor.

RESIDENCE or PREMISES Residence or premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

UNDERAGE PERSON Underage person is any individual under twenty one (21) years of age.

130.10.D Prohibited Acts

130.10.D.1

It is unlawful for any person(s) to:

a) host or allow an event or gathering at any residence or premises where alcohol or alcoholic beverages are present when the person knows that an underage person will or does

   i) consume any alcohol or alcoholic beverage; or

   ii) possess any alcohol or alcoholic beverage; and

b) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s). Reasonable steps shall including the following:

   i) controlling access to alcohol and/or alcoholic beverages at the event or gathering; and

   ii) verifying the age of persons attending the event or gathering by inspecting drivers license or other government issued identification cards to ensure that minors do not consume or possess alcohol and/or alcoholic beverages while at the event or gathering; and,

   iii) supervising the activities of minors at the event or gathering.

130.10.D.2

A person is criminally responsible for violating Subsection (D)(1) above if the person intentionally aids, advises, hires, counsels, or conspires with or othen/vise procures another to commit the prohibited act.

130.10.D.3

A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

130.10.E Exceptions

130.10.E.1

This section does not apply to conduct solely between an underage person and his or her parents while present in the parents household.

130.10.E.2

This section does not apply to legally protected religious Observances.

130.10.E.3

This section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd. 1(a)(1).

130.10.E.4

This section does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

130.99 Penalty

Every person violates a section, division or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both. The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Title XV: Land Usage

Chapter 150: Building Regulations

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150.01 Building Code Adopted By Reference

The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes, Chapter 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of any optional chapters, amendments, rules or regulations, unless specifically adopted herein.

150.02 Property Maintenance Code

150.02.A International Property Maintenance Code Adopted

The International Property Maintenance Code, 2012 Edition, (IPMC) published by the International Code Council, Inc., is hereby adopted by reference as though set forth verbatim herein, as modified and amended by §150.02(B) and shall be referred to as the Property Maintenance Code. One copy of the Property Maintenance Code shall be marked CITY OF CROOKSTON - OFFICIAL COPY and kept on file in the office of the Building Official and open to inspection and use by the public.

150.02.B Amendments to the International Property Maintenance Code

The IPMC adopted by reference in §150.02(A) is hereby modified and amended as follows:

1) **Section 101.1 Title.** This Section is amended in its entirety to read as follows: These regulations shall be known as the Property Maintenance Code, hereinafter referred to as this code.

2) **Section 101.3 Intent.** This Section is amended in its entirety to read as follows: This code shall be construed to secure its expressed intent, which is to promote the public health, safety, general welfare, and zoning and land use objectives insofar as they are affected by the continued occupancy and maintenance of structures and premises.

3) **Section 102.1 General.** This Section is amended by adding the following sentence at the end of the paragraph: Except with respect to the Minnesota State Fire Code, when there is a conflict between this code and any other provision of the City Code or other law adopted by reference in the City Code, the more restrictive shall govern.

4) **Section 102.3 Application of other codes.** This Section is amended in its entirety to read as follows: Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the Minnesota State Building Code, the Minnesota State Fire Code, the Minnesota Plumbing code, the Minnesota Residential Code, the Minnesota Fuel Gas Code, the Minnesota Mechanical Code, the Minnesota Electrical Code, the Minnesota Residential Energy Code and the Minnesota Commercial Energy Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of Chapter 152 of the City Code.

5) **Section 102.7 Referenced codes and standards.** This Section is amended in its entirety to read as follows: The codes and standards referenced in this code shall be those that are listed in the Minnesota State Building Code, the Minnesota State Fire Code, the Minnesota Plumbing Code, the Minnesota Residential Code, the Minnesota Fuel Gas Code, the Minnesota Mechanical Code, the Minnesota Electrical Code, the Minnesota Residential Energy Code and the Minnesota Commercial Energy Code and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2. **Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

6) **SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION.** The title of this Section is amended in its entirety to read as follows: **ADMINISTRATION OF THE PROPERTY MAINTENANCE CODE.**

7) **Section 103.1. General.** This Section is amended in its entirety to read as follows: The City Administrator shall have the authority to appoint an official to administer and enforce this code.

8) **Section 103.2. Appointment.** This Section is amended in its entirety to read as follows: The City Administrator shall appoint an official responsible for the enforcement of this code. This official shall be known as the *code official*.

9) **Section 103.3. Deputies.** This Section is amended in its entirety to read as follows: The City Administrator shall have the authority to appoint deputy(s) to assist the *code official* in administering and enforcing this code. Such deputy(s) shall have the powers delegated by the *code official*.

10) **Section 103.5. Fees.** This Section is amended in its entirety to read as follows: The fees for activities, services, administration, and enforcement of this code are set forth in the Citys fee schedule as adopted by the Council from time to time.

11) **Section 106.3. Prosecution of violation.** The title of this Section is amended in its entirety to read: **Administrative fine and prosecution of violation.** This Section is amended in its entirety to read as follows: Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be charged an administrative fine by the *code official* through the issuance and service of an administrative fine. For purposes of issuing an administrative fine, any violation shall be deemed a *strict liability offense*. The administrative citation shall include a statement that the administrative fine may be appealed in accordance with Section 111.1. It is the intent of the City to impose an administrative fine to defray costs associated with inspection and compliance services. The administrative fine must reflect the costs associated with inspection, notice and order, posting, enforcement, administration, and/or abatement of unlawful conditions set forth in this code and shall be set and may, from time-to-time, be amended, by the City Council by resolution. Failure by the owner or responsible party to pay the administrative fine shall be cause for the amount of the fine to be levied against the subject property as a special assessment and collected as in the case of other special assessments. Any person failing to comply with three or more notices of violations or orders within a twelve-month period shall be guilty of a misdemeanor punishable by up to ninety days in jail, a $1,000.00 fine, or both. Action under this section does not preclude any other civil enforcement procedure.

12) **Section 107.5. Penalties.** This Section is amended in its entirety to read as follows: Penalties for noncompliance with orders and notices shall be as set forth in Sections 106.3 and 106.4.

13) **Section 111.1. Application for appeal.** This Section is amended in its entirety to read as follows: Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Property Maintenance Appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice or order was served. In the case of an appeal from a notice issued to vacate pending elimination of imminent dangers, the appeal shall be heard as soon as possible after the time of filing. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

14) **Sections 111.2, 111.2.1, 111.2.2, 111.2.3, 111.2.4, 111.2.5, 111.4.1, 111.5, 111.6, 111.6.1, 111.6.2, 111.7** are deleted and removed in their entirety.

15) **Section 112.4. Failure to comply.** This Section is amended in its entirety to read as follows: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

16) **Section 201.3. Terms defined in other codes.** This Section is amended in its entirety to read as follows: Where terms are not defined in this code and are defined in the Minnesota State Building Code, the Minnesota State Fire Code, the Minnesota Plumbing Code, the Minnesota Residential Code, the Minnesota Fuel Gas Code, the Minnesota Mechanical Code, the Minnesota Electrical Code, the Minnesota Residential Energy Code, the Minnesota Commercial Energy Code and the City Code, such terms shall have the meanings ascribed to them as stated in those codes.

17) **Section 301.3. Vacant structures and land.** This Section is amended in its entirety to read as follows: All vacant *premises* shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to adversely affect the public health or safety and so that they promote the general welfare and zoning and land use objectives. A *premises* is vacant if no person or persons actually and currently conducts a lawful business on the *premises* or lawfully resides or lives in any part of a *structure* on a permanent, non-transient basis in accordance with the City Code. An owner shall not permit or maintain exterior storage on a vacant *premises*. Exterior storage includes, but is not limited to, storage of motor vehicles, trailers, recreational vehicles, construction materials, firewood, refuse, garbage, salvage materials, or other junk or debris. **Exceptions:** Those persons who leave their residential structures on a temporary basis for vacation purposes or reside elsewhere on a seasonal basis and have the intent to return are exempt from this Section. Those persons who have received approval from the *code official* to store construction materials and equipment and have an active building permit for the *premises* are exempt from this Section.

18) **Section 302.4. Weeds.** This Section is deleted and removed in its entirety.

19) **Section 302.8. Motor vehicles.** This Section is deleted and removed in its entirety.

20) **Section 303.2. Enclosures.** This Section is amended in its entirety to read as follows: Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released form an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. **Exception:** Pools that are temporarily installed above ground and disassembled and removed at the end of the summer season shall be exempt from the provisions of this section. However, during nonuse, such pools shall be covered and access thereto shall be removed.

21) **Section 304.1. General.** This Section is amended in its entirety to read as follows: The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so that it is not detrimental to the public health or safety and so that it promotes the general welfare and zoning and land use objectives.

22) **Section 304.1.1. Unsafe conditions.** The first sentence in this Section is amended by deleting and removing the phrase *International Building Code* or the *International Existing Building Code* and by adding in its place the term *Minnesota State Building Code*.

23) **Section 304.14. Insect screens.** This Section is amended in its entirety to read as follows: During the period of May 1st to October 1st, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

24) **Section 305.1.1. Unsafe conditions.** The first sentence in this Section is amended by deleting and removing the phrase *International Building Code* or the *International Existing Building Code* and by adding in its place the term *Minnesota State Building Code*.

25) **Section 306.1.1. Unsafe conditions.** The first sentence in this Section is amended by deleting and removing the phrase *International Building Code* or the *International Existing Building Code* and by adding in its place the term *Minnesota State Building Code*.

26) **Section 308.2.1. Rubbish storage facilities.** This Section is amended in its entirety to read as follows: The occupant of every premises shall supply approved covered containers for rubbish and shall be responsible for the removal of rubbish from the premises. Notwithstanding the foregoing requirement, the owner of a premises that contains more than four dwelling units shall provide a covered dumpster for the occupants of such premises sufficient to collect the rubbish produced from all units, and such owner shall empty the covered dumpster on a weekly periodic basis, unless it is filled earlier, in which event the owner shall immediately empty the dumpster.

27) **Section 401.3. Alternative devices.** The first sentence in this Section is amended by deleting and removing the term *International Building Code* and by adding in its place the term *Minnesota State Building Code*.

28) **Section 502.5. Public toilet facilities.** The first sentence in this Section is amended by deleting and removing the term *International Building Code* and by adding in its place the term *Minnesota State Building Code*.

29) **Section 505.1. General.** The first sentence in this Section is amended by deleting and removing the term *International Building Code* and by adding in its place the term *Minnesota State Building Code*.

30) **Section 602.3. Heat supply.** The first sentence in this Section is amended in its entirety to read as follows: Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall provide and maintain a heating system during the period from October 1st to May 1st that allows the *occupants* to maintain a minimum temperature of 68F (20C) in all habitable rooms, *bathrooms* and *toilet rooms*.

31) **Section 602.4. Occupiable work spaces.** The first sentence in this Section is amended in its entirety to read as follows: Indoor occupiable work spaces shall be supplied with heat during the period from October 1st to May 1st to maintain a minimum temperature of 65F (18C) during the period the spaces are occupied.

32) **Section 604.3.1.1. Electrical equipment.** The first sentence in this Section is amended by deleting and removing the term *International Building Code* and by adding in its place the term *Minnesota State Building Code*.

33) **Section 604.3.2.1. Electrical equipment.** The first sentence in this Section is amended by deleting and removing the term *International Building Code* and by adding in its place the term *Minnesota State Building Code*.

34) **Section 606.1. General.** The first sentence in this Section is amended in its entirety to read as follows: Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17 and Chapter 1307 of the Minnesota State Building Code.

35) **Section 702.1. General.** The second sentence in this Section is amended by deleting and removing the term *International Fire Code* and by adding in its place the term *Minnesota State Fire Code*.

36) **Section 702.2. Aisles.** The sentence in this Section is amended by deleting and removing the term *International Fire Code* and by adding in its place the term *Minnesota State Fire Code*.

37) **Section 702.3. Locked doors.** The sentence in this Section is amended by deleting and removing the term *International Fire Code* and by adding in its place the term *Minnesota State Fire Code*.

38) **Section 704.1. General.** The sentence in this Section is amended by deleting and removing the term *International Fire Code* and by adding in its place the term *Minnesota State Fire Code*.

39) **SECTION 705.** A new Section is added entitled **SECTION 705 CARBON MONOXIDE ALARMS.**

40) **Section 705.1.** A new Section is added entitled **Section 705.1 General.** This Section shall read as follows: Carbon monoxide alarms shall be installed in accordance with Minnesota Statutes, Sections 299F.50-51, as amended from time to time.

41) **CHAPTER 8 REFERENCED STANDARDS.** The following sentence in this Chapter is removed and deleted in its entirety: The application of the referenced standards shall be as specified in Section 102.7.

42) **CHAPTER 8 REFERENCED STANDARDS.** The standard reference number A17.1/CSA B44- 2007" cited in the American Society of Mechanical Engineers table in this Chapter is replaced with A17.1/CSA B44-2010.

43) **CHAPTER 8 REFERENCED STANDARDS.** The table regarding the International Code Council in this Chapter is deleted in its entirety.

150.03 Permit Fees

Fees for permits under this chapter, which may include a surcharge, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the Building Official and uniformly enforced.

150.04 Building Permits Required; Exterior Work Time Limits

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbingr electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each building, structure or

mechanical components from the city, except for exemptions listed in the Building Code. No permit shall be required for minor or insignificant work for which no permit fee is charged. It is unlawful for any person to fail to complete exterior work authorized by a building permit issued in accordance with the state building code within 365 days following issuance of the building permit when the project involves a one to four family residence or within 730 days following issuance of the building permit when the project does not involve a one to four family residence.

150.05 Permits and Special Requirements for Moving Buildings

150.05.A Definitions

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

COMBINED MOVING PERMIT A permit to move a building on both a street and a highway.

HIGHWAY A public thoroughfare for vehicular traffic which is a state trunk highway, county state-aid highway, or county road.

HIGHWAY MOVING PERMIT A permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of the movement.

MOVING PERMIT A document allowing the use of a street or highway for the purpose of moving a building.

STREET A public thoroughfare for vehicular traffic which is not a state trunk highway, county state-aid highway or county road.

STREET MOVING PERMIT A permit to move a building on a street for which a fee is charged which does include route approval, together with use of the street and activities including, but not limited to, repairs or alterations to a municipal utility required by reason of the movement.

150.05.B Application

The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of the movement. In the case of a street moving permit or combined moving permit the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of the movement. All applications shall be referred to the Public Works Department. All applications for street and combined moving permits shall also be referred to the Police Department and no permits shall be issued until route approval has been obtained from the Departments.

150.05.C Permit and Fee

The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota. Fees to be charged shall be separate for each of the following: a moving permit fee to cover use of streets

and route approval, and a fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by the movement. All permit fees shall be paid in advance of issuance.

150.05.D Building Permit and Code Compliance

Before any building is moved from one location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the State Building Code.

150.05.E Unlawful Acts

150.05.E.1

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

150.05.E.2

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

150.05.E.3

It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of the payment with the city.[148]

150.06 Sign Permits

150.06.A Permit Required

Except for exemptions listed in SEC. 152.177, it is unlawful for any person to erect, construct, enlarge, alter, move, remove, repair, maintain, or convert any sign without first obtaining a separate permit therefor for each sign.

150.06.B Requirements and Regulations

150.06.B.1

A separate permit application shall be required for each activity sign requiring a permit.

150.06.B.2

No permit application shall be accepted unless it is accompanied by specific plans and all necessary information upon which to base a decision as to whether or not it complies fully with the city code.

150.06.B.3

Sign permit fees shall be established by resolution of the Council.

[148] Penalty, see SEC. 150.99

150.06.B.4

No permit shall issue until the applicant has filed with the Clerk-Treasurer a policy or certificate of public liability insurance for coverage of the sign-related activity concurrent with the permit term with limits of at least $100,000 for injury to one person, $300,000 for each occurrence, and $50,000 property damage.

150.06.B.5

It is the primary responsibility of all owners and occupants of private property to see that all signs located thereon are erected, constructed, enlarged, altered, moved, removed, repaired, maintained and converted in compliance with the city code. It is unlawful for any person to allow any sign located on real property owned or occupied by him or her to be erected, constructed, enlarged, altered, moved, removed, repaired, maintained, or converted without a required permit.

150.06.B.6

In the event any work or activity relating to a sign is performed without the securing of the required permit prior to the work or activity, in addition to all other rights and remedies authorized by the city code and as otherwise provided by law, the city may cause the sign to be inspected for compliance with the requirements of the city code. The city shall charge an inspection fee for any inspection which may include a penalty for failure to secure the required permit.

150.06.B.7

The inspection fee under this section (including any penalty for failure to secure the required permit) shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The inspection fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective inspection fee shall be kept on file in the office of the Clerk-Treasurer, and open to inspection during regular business hours.

150.06.B.8

If upon the inspection the sign is found to comply with city code requirements, a permit therefor may be issued upon payment of the inspection fee and the regular permit fee.

150.06.B.9

If any sign is found to have been erected, constructed, enlarged, altered, moved, removed, repaired, maintained, or converted in violation of any of the provisions of the city code, the city may give the owner and occupant of the property upon which the sign is located written notice of the violation. Unless the sign is owned by the owner or occupant of the property, a copy of the notice shall also be given to the owner of the sign, if known, or, if unknown, affixed to the sign, sign structure, or building. If the violation is not remedied within 30 days after the notice, or within three days after any notice relating to a portable sign, the city may remove, or cause to be removed, the sign at the expense of the owner and occupant of the property.

150.06.B.10

Any rights or remedies conferred by this section shall not preclude other civil or criminal action by the city under this section, the city code or other applicable law.

150.06.B.11

The owner and occupant of the property on or upon which the sign is located which is inspected under division (B)(7) of this section or otherwise found to be in violation of the requirements of the city code shall be jointly and severally liable for the payment of the inspection fee and the cost of removal of the sign by the city. The city may prepare a bill and mail it to the owner and occupant and the amount shall then be due and payable. The city may collect the same in a civil action.[149][150]

150.07 Satellite Dish Antenna Permits

150.07.A Definition

The term **SATELLITE DISH ANTENNA** has the meaning set forth in city code SEC. 152.003.

150.07.B Unlawful Activity

It is unlawful for any person to erect, construct, move, or maintain, or cause to be erected, constructed, moved, or maintained within the city any satellite dish antenna greater than 30 inches in diameter without first obtaining a separate permit for each antenna.

150.07.C Requirements and Regulations

150.07.C.1

A separate permit application shall be required for each activity and satellite dish antenna requiring a permit.

150.07.C.2

No permit application shall be accepted unless it is accompanied by specific plans and all necessary information upon which to base a decision as to whether or not it complies fully with the city code.

150.07.C.3

In the event that the Building Official, by reason of conditions imposed herein, or omitted therefrom, is unable to grant a requested permit, the application therefor shall be presented to the Planning Commission at the next regular meeting for consideration, interpretation, and recommendation to the Council. In the event that the decision of the Council is favorable, the permit shall be granted under considered special conditions.

150.07.C.4

Satellite dish antenna permit fees shall be established by resolution of the Council.[151]

150.08 Fences

150.08.A Definition

For purposes of this section, the term **FENCE** means any partition, structure or gate erected as a dividing marker, barrier or enclosure of a property.

[149] (Ord. 18, 2nd Series, effective 5-18-85)
[150] Penalty, see SEC. 150.99
[151] Penalty, see SEC. 150.99

150.08.B Application

Notwithstanding any provisions to the contrary contained in this Code, it is unlawful for any person to construct or erect any fence without first obtaining a permit from the city.

150.08.C Application for Permit

Every application for a fence permit shall be submitted to the Building Official. The application shall set forth the type of fence, the materials to be used in the construction thereof, its height, and its location, particularly as to its proximity to the lot lines of the applicant. The applicant is responsible to properly locate the property lines. A survey may be needed if the applicant is unable to locate the property markers. The fee shall be a fixed fee as required in §150.03.

150.08.D Prohibited

Notwithstanding any provisions to the contrary contained in this Code, it is unlawful for any person to construct and maintain or allow to be constructed or maintained upon any property a barbed wire fence or any fence charged or connected with any electrical current in such a manner as to transmit the current to persons, animals or things which intentionally or unintentionally come in contact with the same.

150.08.E Restricted

Barbed wire may be used to top security fencing in an industrial district but shall not be closer to the ground than a height of six and one-half feet. Fences charged or connected with an electrical current may be allowed in the Farm Residence district for agricultural use only.

150.08.F Temporary Fencing

The following fencing materials may be installed without a permit if they meet the listed restrictions:

1) Snow fences: Plastic or wood fencing used for the limited purpose of reducing the drifting of snow shall be allowed from October 1st through May 1st.

2) Construction-related fencing: Silt fences or fencing for the purpose of security at a construction jobsite, protection of excavation or protection of plants, shall be allowed during the duration of the project, while the building permit is valid.

150.08.G Common Fences

Fences may be placed on an adjoining property line, provided the property owners agree in writing and the writing is recorded in the office of the County Recorder on each of the subject properties. A copy of this recorded agreement must be provided to the Building Official prior to issuance of a permit.

150.08.H Standards

Notwithstanding any provisions to the contrary contained in this Code, all fences erected or maintained in the city shall meet and comply with the following requirements:

1) All fences shall not exceed six feet in height in a residential district.

2) All fences more than a height of six feet in a non-residential district are permitted to the extent they comply with the Minnesota State Building Code.

3) All fences on the street side of the principle structure shall not exceed four feet in height if erected closer to the street line than the average set back in the area.
4) All fences shall comply with the traffic control restrictions in §152.170.
5) No fence shall be allowed to be erected closer than two feet from the property line or within a utility or drainage easement.
6) No fence shall be allowed to be erected parallel to an alleyway closer than five feet from the property line.
7) No fence shall be constructed of solid sheathing.
8) The Council shall have the power upon application, for cause shown, to waive the strict application of the preceding requirements and compliance therewith.

150.08.I Construction

Every fence shall be constructed in a substantial manner and of a substantial material reasonably suitable for the purpose for which the fence is proposed to be used. Supports and structural members of any fence shall be placed in the interior side of the fence so that the finished side is exposed.

150.08.J Maintenance

Every fence shall be structurally sound and maintained in a condition of reasonable repair and shall not by reason of age, decay, accident or other cause be allowed to become and remain in a state of disrepair so as to be a nuisance of the public or any abutting property owner. Furthermore, all fences shall be constructed and maintained so that the exposed, outer-face is smooth, in neat condition and appearance at all times, and free of rust, rotting, chipped paint, loose/broken fencing panels, or exposed structural members. The maintenance requirements apply to every fence, regardless of whether it was constructed before or after the adoption of this provision. If the Building Official determines that more than 25% of the fence is in disrepair, the Building Official shall notify the owner of the property on which the fence is located, in writing, of the existence of said disrepair, and a permit shall be secured by the owner within 14 days after receiving the notice from the Building Official. Failure to secure the permit within 14 days after receiving the notice, or repair the fence in a reasonable time, may result in the city ordering the fence be repaired, painted or removed.

150.09 Temporary Family Health Care Dwellings

Pursuant to the authority granted by Minnesota Statutes, §462.3593, Subd. 9, the City of Crookston optsout of the requirements of Minnesota Statutes, §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

150.99 Penalty

Every person who violates a section, division, or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both. The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Chapter 151: Subdivision Regulations

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GENERAL PROVISIONS

151.01 Purpose

The process of dividing raw land into separate parcels for other uses including residential, industrial and commercial sites, is one of the most important factors in the growth of any community. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is, therefore, to the interest of the general public, the developer, and the future land owners that subdivisions be conceived, designed, and developed in accordance with the highest possible standards of excellence. All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

A) Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;

B) Provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service;

C) Place the cost of improvements against those benefiting from their construction;

D) Secure the rights of the public with respect to public lands and waters;

E) Improve land records by establishing standards for surveys and plats;

F) Protect the environmentally sensitive areas in the city; and

G) Preserve energy through the encouragement of solar and earth-sheltered structures.

151.02 Scope and Legal Authority

151.02.A Scope

The rules and regulations governing plats and subdivision of land contained herein shall apply within the city and other land as permitted by Minnesota State Statutes and as approved by the city. Except in the case of resubdivision, this chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the Polk County Recorder prior to the effective date of this chapter, nor is it intended by this chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or city code provisions except those specifically repealed by, or in conflict with this chapter, or with restrictive covenants running with the land. Where this chapter imposes a greater restriction upon the land than is imposed or required by the existing provisions of law, city code provisions, contract or deed, the provisions of this chapter shall control.

151.02.B Amendments

The provisions of this chapter may be amended by the Council.

151.02.C Restrictions on Filing and Recording Conveyances

151.02.C.1

No conveyance of land in which the land conveyed is described by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1969 or to an unapproved plat made after these regulations become effective, shall be made or recorded unless the parcel described in the conveyance:

a) Was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter;

b) Was the subject of a written agreement to convey entered into prior to such time;

c) Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on January 1, 1966;

d) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;

e) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or

f) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels any one of which is less than 20 acres in area or 500 feet in width.

151.02.C.2

In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive the compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall forfeit and pay to the city a penalty of not less than $100 for each lot or parcel so conveyed. The city may enjoin the conveyance or may recover the penalty by a civil action in any court of competent jurisdiction.

151.02.C.3

These subdivision regulations shall be applicable to any parcels which are taken from existing parcels of record by metes and bounds description and the city may deny the issuance of building permits to any parcels so divided, pending compliance with the subdivision regulations.

151.02.D Platting

Any subdivision creating parcels, tracts or lots after the adopting of these regulations shall be platted.[152]

151.03 Definitions

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

ALLEY A public right-of-way usually 20 feet or less in width which normally affords a secondary means of vehicular access to abutting property.

ATTORNEY The attorney employed by the city unless otherwise stated.

BLOCK The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

BOULEVARD The portion of the street right-of-way between the curb line and the property line.

[152] Penalty, see SEC. 151.99

BUTT LOT A lot at the end of a block and located between two corner lots.

CLUSTER DEVELOPMENT A subdivision development planned and constructed so as to group housing units into patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this chapter and the zoning chapter.

COMPREHENSIVE PLAN A plan prepared by the city including a compilation of policy statements, goals, standards and maps indicating the general locations recommended for the various functional classes of land use and for the general physical development of the city and includes any plan or parts thereof.

CONTOUR MAP A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

COPY A print or reproduction made from a tracing.

CORNER LOT A lot bordered on at least two sides by streets.

CONCEPT PLAN or SKETCH PLAN A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas, and water and sewer systems presented to the city officials at the pre-application meeting.

COUNTY BOARD Polk County Board of Commissioners.

DEVELOPMENT The act of building structures and installing site improvements.

DOUBLE FRONTAGE LOTS Lots which have a front line abutting on one street and a back or rear line abutting on another street.

DRAINAGE COURSE A water course or indenture for the drainage of surface water.

EASEMENT A grant by an owner of land for a specific use by persons other than the owner.

ENGINEER The registered engineer employed by the city unless otherwise stated.

FINAL PLAT The final map, drawing or chart on which the subdividers plan of subdivision is presented to the Council for approval and which, if approved, will be submitted to the County Recorder.

KEY MAP A map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

LOT A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

METES AND BOUNDS DESCRIPTION A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

MINIMUM SUBDIVISION DESIGN STANDARDS The guides, principles and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

OWNER An 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 these regulations.

PEDESTRIAN WAY A public right-of-way across or within a block intended to be used by pedestrians.

PLAT The drawing or map of a subdivision prepared for filing of record pursuant to M.S. Chapter 505, as it may be amended from time to time, and containing all elements and requirements set forth in applicable local regulations adopted pursuant to M.S. SEC. 462.358 and Chapter 505, as may be amended from time to time.

PRELIMINARY APPROVAL Official action taken by the city on an application to create a subdivision which establishes the rights and obligations set forth in M.S. SEC. 462.358, as it may be amended from time to time, and the applicable subdivision regulation. In accordance with M.S. SEC. 462.358, as it may be amended from time to time, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

PRELIMINARY PLAT The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and Council for their consideration.

PRIVATE STREET A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

PROTECTIVE COVENANTS Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

RIGHT-OF-WAY The publicly owned land along a street or highway corridor a portion of which is covered by the street or highway pavement.

STREET A public way for vehicular traffic, whether designed as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place or however otherwise designated.

1) **ARTERIAL STREET** A street or highway with access restrictions designed to carry large volumes of traffic between various sections of the city and beyond.
2) **COLLECTOR STREET** A street which carries traffic from local streets to arterials.
3) **CUL-DE-SAC** A street turn-around with only one outlet.
4) **LOCAL STREET** A street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.
5) **SERVICE STREET** Marginal access street, or otherwise designated, is a minor street, which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

STREET WIDTH For the purpose of this chapter, the shortest distance between the lines delineating the right-of-way.

SUBDIVIDER Any person commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.

SUBDIVISION The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
2) Creating cemetery lots; and
3) Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

TRACING A plat or map drawn on transparent paper or cloth which can be reproduced by using regular reproduction procedure.

PRELIMINARY AND FINAL PLATS

151.15 Identification and Description of Preliminary Plat

The following data is required for a preliminary plat:

A) Proposed name of subdivision and street names, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in Polk County.

B) Location by section, township, range, and by legal description.

C) Name of city.

D) Names and addresses of the record owner and any agent having control of the land, subdivider, land surveyor, engineer, and designer of the plan.

E) Graphic scale not less than one inch to 100 feet.

F) North point.

G) Key map including area within one mile radius of plat.

H) Date of preparation.

I) A current abstract of title or a registered property certificate along with any unrecorded documents and an opinion of title by the subdividers attorney.

151.16 Existing Conditions in Proposed Tract

151.16.A

Boundary line of proposed subdivision, clearly indicated and to a close degree of accuracy.

151.16.B

Existing zoning classifications for land within and abutting the subdivision including floodplain, and shoreland districts, if applicable.

151.16.C

A general statement of the approximate acreage and dimensions of the lots.

151.16.D

Location, right-of-way width, and names of existing or platted streets, or other public ways, parks, and other public lands, permanent buildings and structures, easements and section and corporate lines within the plan.

151.16.E

Boundary lines of adjoining unsubdivided or subdivided land, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.

151.16.F

Topographic data, including contours at vertical intervals of two feet, watercourses, marshes, rock outcrops, power transmission poles and lines, and other significant features shall also be shown, including without limitation, shading all areas containing a grade greater than 7%.

151.16.G

An analysis of the soils by representatives of the Polk County Soil and Water Conservation District and soil borings may be required, if deemed necessary by the Planning Commission or Council.

151.16.H

If applicable, limits of the floodplain, floodway and flood fringe areas.

151.16.I

Existing zoning and land use in the area within 50 feet of the boundaries of the tract.

151.16.J

Plans for water supply, sewage disposal, drainage and flood control. Location and size of existing sewers, water mains, culverts or other underground facilities within the preliminary plan area. The data as existing grades, invert elevations, and location of catch basins, manholes, hydrants and street pavement width and type, shall also be shown.

151.17 Subdivision Design Features

151.17.A

Layout and width of proposed streets and utility easements, pedestrian ways showing street names, lot dimensions, parks and other public areas. The street layout shall include all contiguous land owned or controlled by the subdivider.

151.17.B

Proposed use of all parcels, and if zoning change is contemplated, proposed zoning amendment.

151.17.C

Preliminary street grades and drainage plan.

151.17.D

Layout, numbers and preliminary dimensions of lots and blocks.

151.17.E

When lots are located on a curve, the width of the lot at the building setback line.

151.18 Other Information

151.18.A

Where a subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision.

151.18.B

Potential resubdivision and use of excessively deep or wide (over 200 feet) lots shall be indicated in a satisfactory manner.

151.18.C

A plan for soil erosion and sediment control both during construction and after development has been completed.

151.18.D

The other information as may be requested by the city staff, Planning Commission, or Council.

151.19 Data and Requirements for Final Plats

151.19.A

The plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall comply with the appropriate provisions of Minnesota Statutes and of these regulations.

151.19.B

Data as required by the City Engineer, for example, accurate angular and linear dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements, and other important features.

151.19.C

Identification and description data as required for the preliminary plat.

151.19.D

Boundaries of the property lines of all proposed streets and alleys, with their width, and any other areas intended for public use.

151.19.E

Lines of adjoining streets and alleys, with their widths and names.

151.19.F

All lot lines and easements, with figures showing their dimensions.

151.19.G

An identification system for all lots and blocks.

151.19.H

Certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers thereon exist as located and that all dimensional and geodetic details are correct.

151.19.I

Notarized certification by owner, and by any mortgage holder of record, of adoption of the plat and the dedication of streets and other public areas.

151.19.J

Certification showing that all taxes currently due have been paid and that all special assessments have been paid in full.

151.19.K

Title opinion by a practicing attorney-at-law based upon an examination of an abstract of the records of the Polk County Recorder for the lands included within the plat and showing the title to be in the name of the owner or subdivider. The date of continuation of the abstract examined or the date of the examination of the records shall be within 30 days prior to the date the final plat is filed with the County Auditor. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the Polk County Recorder.

151.19.L

Execution by all owners of any interest in the land and any holders of a mortgage therein of the certificate required by Minnesota Statutes and which certificate shall include an accurate legal description of any area to be dedicated for public use and shall include a dedication to the city of sufficient easements to accommodate utility services in the form as shall be approved by the City Attorney.

151.20 Certifications

The final plat shall include the required certification by the city and county officials. This shall include a signature by the Chairman of the Planning Commission indicating that the plat has been reviewed by the Planning Commission.

151.20.A

Form for approval by signature of county officials concerned with the recording of the plat.

151.20.A.1

Checked and approved as to compliance with M.S. Chapter 505, as it may be amended from time to time.
Dated this _____ day of _____, A.D., 20_____.

_____
$(Name) Polk County Engineer$

151.20.A.2

No delinquent taxes and transfer entered this _____ day of _____ 20_____.

_____
$(Name) Polk County Auditor$

151.20.A.3

Document Number _____.
I hereby certify this instrument was filed in the office of the County Recorder for record on this _____ day of _____, 20_____, at _____ oclock _____.m., and was duly recorded in Book _____ of _____, on Page _____.

_____
$(Name) County Recorder, Polk County$

151.20.A.4

If property being platted is in the Torrens System, use the following:
Document Number _____.
I hereby certify this instrument was filed in the office of the Registrar of Titles for record on this _____ day of _____, 20_____, at _____ oclock _____.m., and was duly recorded in Book _____ of _____, on Page _____.

_____
$(Name) Registrar of Titles, Polk County$

151.20.A.5

Checked and approved as in compliance with the zoning ordinance and the subdivision regulations chapter.

_____
$Chairman, Crookston Planning Commission$

151.20.B Form for Approval by the City Attorney

I 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.
Dated this _____ day of _____, A.D., 20_____.

_____
$(Name) Crookston Attorney$

151.20.C

Approved by Crookston City Council on this _____ day of _____, A.D., 20_____.

_____
$Mayor, Crookston$

Attest:

_____
$Clerk-Treasurer$

SUBDIVISION DESIGN STANDARDS

151.30 Conformity with Comprehensive Plan

The proposed subdivision shall conform to the comprehensive plan adopted by the city.

151.31 Streets and Thoroughfares

151.31.A General Street Design

151.31.A.1

The design of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, topographic conditions, to runoff of storm water and to the proposed uses of the area to be served.

151.31.A.2

Where new streets extend existing adjoining streets their projection shall be no less than the minimum required width, and when new streets extend existing adjoining streets, their centerlines shall be continuous.

151.31.A.3

Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets so that parcels will not be land-locked. When a new subdivision adjoins developable land, then the new streets shall be carried to the boundaries of the unsubdivided land.

151.31.B Street Names

Street names shall not duplicate the names of other streets.

151.31.C Street Width and Grade

Street right-of-way widths shall be as determined in the policies plan and official map and, where applicable, shall conform to county and state standards for trunk highways. If there is no plan or standard, right-of-way widths shall conform to the following minimum dimensions:

Street Category	**Minimum Width R.O.W**	**Minimum Width Pavement**	**Maximum Grade**	**Minimum Drainage Grade**
Collector	80 ft.	38 ft.	5%	.5%
Local	60 ft.	26 ft.	7%	.5%
Frontage roads	60 ft.	24 ft.	7%	.5%
Cul-de-sac street	60 ft.	32 ft.	7%	.5%
Turn-around radius of cul-de-sac	55 ft.			.5%

151.31.D Street Intersections

Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 60 degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated to the city.

151.31.E Tangents

A tangent of at least 100 feet shall be introduced between reverse curves on streets.

151.31.F Deflections

When connecting street lines deflect from each other at one point by more than ten degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of no less than 100 feet for all streets.

151.31.G Street Jogs

Street jogs with centerline offsets of less than 150 feet shall be avoided.

151.31.H Local Streets

Local streets shall be laid out so as not to encourage through traffic.

151.31.I Cul-de-sac

The maximum length of a street terminating in a cul-de-sac shall be 500 feet, measured from the centerline of the street of origin to the end of the right-of-way.

151.31.J Access to Arterial Streets

In the case where a proposed plat is adjacent to a limited access highway (arterial), there shall be no direct vehicular or pedestrian access from individual lots to the highways. As a general requirement, access arterials shall be at intervals of not less than one-fourth mile and through existing and established cross roads where possible. The Council may require the developer to provide local service drives along the right-of-way of the facilities, or it may require that lots should back on the arterial, in which case, vehicular and pedestrian access between the lots and arterial shall be prohibited.

151.31.K Half Streets

Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted.

151.31.L Corners

Curb lines at street intersections shall be rounded at a radius of not less than 15 feet.

151.31.M Hardship to Owners of Adjoining Property

The street 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.

151.32 Blocks and Lots

151.32.A Blocks

The length, width and acreage of blocks shall be sufficient to provide for convenient access, circulation, control and safety of street design.

151.32.B Lots

151.32.B.1 Size

The lot dimensions shall be such as to comply with the minimum lot areas specified in the zoning chapter.

151.32.B.2 Side Lot Lines

Side lines of lots shall be substantially at right angles to straight street lines or radial to curved street lines.

151.32.B.3 Drainage

Lots shall be graded so as to provide drainage away from building locations.

151.32.B.4 Natural Features

In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, wetlands, steep slopes, water courses, or similar conditions, and plans adjusted to preserve those which will add attractiveness, safety and stability to the proposed development.

151.32.B.5 Lot Remnants

All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels unless the owner can show plans for future use of the remnant.

151.32.B.6 Double Frontage Lots

Double frontage (lots with frontage on two parallel streets) or reverse frontage shall be discouraged except where lots back on an arterial or collector street. The lots shall have an additional depth of at least ten feet in order to allow for screen planting along the back lot line.

151.33 Easements

151.33.A Utilities

Easements of at least ten feet wide centered on rear lot lines shall be provided for utilities where necessary. Easements for storm or sanitary sewer shall be at least 20 feet wide. They shall have continuity of alignment from block to block. Temporary construction easements may be required where installation depths are greater than ten feet. Utility easements shall be kept free of any vegetation or structures which would interfere with the free movement of utility service vehicles.

151.33.B Water Courses

When a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water courses, and with the further width or construction as may be determined to be necessary by the City Engineer.

151.34 Tree Removal, Conservation, Soil Erosion, Density Credit

151.34.A Tree Removal and Conservation of Vegetation

The standards related to tree removal contained in the performance standards of the zoning chapter shall be applicable to all proposed subdivisions.

151.34.B Soil Erosion and Sediment Control

The standards related to soil erosion and sediment control contained in the performance standards of the zoning chapter shall be applicable to all proposed subdivisions.

151.34.C Density Credit

In order to protect environmentally sensitive areas such as wetlands, marshes, steep slopes, woodlands, a density credit system shall be allowed for residential developments. The overall density of the zoning districts shall not be exceeded and the standards set forth in the planned unit development provisions of the zoning chapter shall be applicable.

151.35 Parks, Open Space and Public Use

151.35.A

Where a proposed park, playground, school site, or other public site shown on an adopted comprehensive plan or official map is embraced in part or in whole by a boundary of a proposed subdivision, and the public ground shall be shown as reserved land on the preliminary plat to allow the Council, Board of Education or county and state agency the opportunity to consider and take action toward acquisition of the public ground or park or school site by purchase or other means prior to approval of the final plat.

151.35.B

It is declared general policy that in all new subdivisions, percentage of the gross area of all property subdivided shall be dedicated for parks, playgrounds, or other public use. The percentage shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public ways. The following schedule shall be applicable to all subdivisions. This schedule is based upon the density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts.

In areas zoned:	
R-1	5% of the total land area
R-2	6% of the total land area
R-3	8% of the total land area

151.35.B.1

No areas may be dedicated as parks, playgrounds, or public lands until the areas have been approved for the purpose to which they are to be dedicated. The park land shall be graded to the contours set forth in the preliminary plat.

151.35.B.2

The developer shall provide a minimum of three inches of black dirt over the entire park area and the area shall be seeded with a type of seed approved by the city. The financial guarantees by the developer to the city shall be in effect at least until the time that the park land is graded and seeded.

151.35.C

At least 50% of the gross area dedicated for parks, open space or public use shall be suitable for active recreation use. Active recreation meaning organized playground activities such as softball, football, and the like. These areas to be used for organized playground activities shall have a slope of less than 2% grade and be largely clear of forest vegetation. Other areas to be dedicated may be forested and may have steeper slopes.

151.35.D

When the subdivision is small or does not include a park or public area shown on the comprehensive plan, or if in the judgment of the Council the area proposed to be dedicated is not suitable or desirable for park/playground purposes because of location, size or other reason, the Council may require, in lieu of land dedication, a payment to the city of a sum equal to the percentage listed above of the market value of the land to be subdivided as determined by the City Assessor. The undeveloped land value shall be the value of the land when ready to be platted but not including utility costs. The Council and/or its agents shall have the authority to make the final determination of the value of the land for

purposes of park dedication. If requested, the Council shall provide the developer or landowner with the methodology used to calculate the value of the land.

151.35.E

The dedication of land for public use shall be without restrictions or reservations and shall be transferred to the city by deed or by plat. Money given to the city in lieu of land shall be used by the city only for acquiring or developing public park land.

REQUIRED IMPROVEMENTS

151.50 Improvements Required for All Subdivisions

The subdivider and/or developer shall be required to provide the following improvements for all subdivisions unless the Council elects to do so under a subdivision agreement and financial guarantees as provided for herein or by assessing benefited property for all or a portion of the cost of required improvements under the development contract and financial guarantees from the subdivider-developer as the Council may require.

151.50.A Monuments

Steel monuments shall be placed at lot corners, block corners, angle points, points of curves and at intermediate points as shown on the final plat. The installation shall be the subdividers expense and responsibility. All U.S., state, county or other official benchmarks, monuments, or triangulation stations in or adjacent to property shall be preserved in precise position.

151.50.B Streets

151.50.B.1 Grading

Streets shall be graded to the full width of the right-of-way in accordance with street grades submitted to and approved by the Engineer or as approved by him. All street grading and gravel base construction shall be in accordance with specifications on file in the Engineers office. Grading shall be complete prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after completion of the installation of underground utilities.

151.50.B.2 Surfacing

Following the City Engineer approval of street grading and after utility installation, streets shall be surfaced and provided with concrete curbs and gutters in accordance with the latest recommended plans and specifications prepared by the Engineer, approved by the Council, and on file in the Recorders office.

151.50.B.3 Sidewalks and Driveways

In cases where driveways are constructed after curbing and sidewalk are in place, the sidewalk shall be reconstructed in accordance with driveway specifications to the width of the driveway.

151.50.C Utilities

151.50.C.1 Installation

All utilities, whether private or public, shall be installed underground so as to enhance the visual appearance of the area, unless special permission is granted by the Council for other installations. Where utilities are to be installed in street or alley rights-of-way, the installations shall take place prior to street surfacing. Water and sewer services shall be laid to the property line.

151.50.C.2 Sanitary Sewer

Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the Engineer and shall meet the requirements of the master plan for sanitary sewer extensions of the city. All new construction shall be connected to the sanitary sewer system.

151.50.C.3 Water Supply

Water distribution facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the Engineer and shall meet the requirements of the master plan for watermain extensions of the city. All new construction shall be connected to the water system.

151.50.D Drainage Facilities

Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the Engineer for the proper drainage of surface waters.

151.50.E Tree Planting or Street Trees

In areas lacking trees, the type, size and location shall be as determined by the city.

151.50.F Specifications and Inspections

Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the Council. The improvements shall be subject to inspection and approval by, and shall be made in sequence as determined by the City Engineer.

151.51 Payment for Installation of Improvements

151.51.A General

The required improvements as listed in this chapter are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost by the city. Further, if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to the lands, to be assessed against the same. In such a situation, the subdivider will be required only to pay for the portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

151.51.B Agreement Providing for the Installation of Improvements

151.51.B.1

Prior to the installation of any required improvements and prior to approval of the plat, the subdivider shall enter into a contract in writing with the city requiring the subdivider or the city to furnish and construct said improvements at the subdividers sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provisions for supervision for details of construction by the Engineer and shall grant to the Engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the city in the vicinity. The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond, the amount of the deposit or penal amount of the bond to be equal to 125% of the Engineers estimate of the total cost of the improvements to be furnished under the contract, or the lesser amount as the Council has authorized, including the cost of inspection. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In the event the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat. The time for completion of the work and the several parts thereof shall be determined by the city upon recommendation of the Engineer after consultation with the subdivider. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the plat and subdivision.

151.51.B.2

No subdivider shall be permitted to start work on any other subdivision without special approval of the Council if he or she has previously defaulted on work or commitments.

151.51.C Financial Guarantee

151.51.C.1

The contract provided for in division (B) of this section shall require the subdivider to make an escrow deposit or, in lieu thereof, furnish a performance bond. The escrow deposit or performance bond shall conform to the requirements of this section.

151.51.C.2

An escrow deposit shall be made with the city in a sum equal to 125% of the total cost as estimated by the Engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract, which have not been completed prior to approval of the plat. The total costs shall include costs of inspection by the city. The city shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the city for completion of the work in case of default of the subdivider under said contract, and for any damages sustained on account of any breach thereof. Upon completion of the work and termination of any liability, the balance remaining in said deposit shall be refunded to the subdivider.

151.51.C.3

In lieu of making the escrow deposit, the subdivider may furnish a bank letter or credit or performance bond with corporate surety in a penal sum equal to 125% of the total cost as estimated by the Engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract, which have not been completed prior to the approval of the plat. The bond shall be approved as to form by the attorney and filed with the Clerk-Treasurer.

151.51.C.4

In the event the subdivider defaults in the terms in addition to all other rights and remedies authorized by this chapter and as otherwise provided by law, the city may complete the project referred to in the contract and assess all costs of the completion incurred by the city against the real property being subdivided as a special assessment and collect it the same as if it were any other special assessment levied by the city against real property.

151.51.D Construction Plans and Inspection

151.51.D.1

Construction plans for the required improvements conforming in all respects with the standards and city code provisions shall be prepared at the subdividers expense by a professional engineer who is registered in the State of Minnesota, and the plans shall contain his or her certificate. The plans together with the quantities of construction items shall be submitted to the Engineer for his or her approval and for his or her estimate of the total costs of the required improvement. Upon approval, the plans shall become a part of the required contract. The tracings of the plans approved by the Engineer plus two prints shall be furnished to the city to be filed as a public record.

151.51.D.2

All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the City Engineer at the subdividers expense, and acceptance by the city shall be subject to the Engineers certificate of compliance with the contract.

151.51.E Improvements Completed Prior to Approval of the Plat

Improvements within a subdivision which have been completed prior to application for approval of the plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the Engineer shall certify that he or she is satisfied that the existing improvements conform to applicable standards.

ADMINISTRATION AND ENFORCEMENT

151.65 Plat Presentation Procedures

The following procedures shall be followed in the administration of this chapter and no real property within the jurisdiction of this chapter shall be subdivided and offered for sale or a plat recorded until a preliminary plat and a final plat of the proposed subdivision have been reviewed by the Planning Commission and the city staff, and until the final plat has been approved by the Council as set forth in the procedures provided herein. PUDs shall be presented in the same manner as other plats for the review of the Planning Commission and the approval of the Council.

151.66 Pre-Application Meeting

151.66.A

Prior to the preparation of a preliminary plat, the subdividers or owners shall meet with the Zoning Administrator, Engineer, and other appropriate officials in order to be made fully aware of all applicable

city code provisions, regulations, and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider may submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply and waste disposal. The sketch plan can be presented in simple form but should show that consideration has been given to the relationship of the proposed subdivision to existing city facilities that would serve it, to neighboring subdivisions and developments, and to the natural resources and topography of the site.

151.66.B

The subdivider is urged to avail himself of the advice and assistance of the local planning staff at this point in order to save time and effort, and to facilitate the approval of the preliminary plat.

151.67 Preliminary Plat

151.67.A

After the pre-application meeting, the subdivider shall submit six or more copies of the preliminary plat to the Zoning Administrator at least seven days prior to the Planning Commission meeting at which the plat is to be considered. The subdivider shall include a written statement along with the preliminary plat describing the proposed subdivision. The written statement shall include the anticipated development of existing natural features and vegetation, and any other information required by the subdivision regulations.

151.67.B

The Zoning Administrator shall submit one copy of the preliminary plat to the Planning Commission, the City Engineer, and any other appropriate city officials. One copy shall also be submitted to the County Engineer if the plat abuts a county road and one copy to the State Department of Transportation if the plat abuts a state highway for review and comment.

151.67.C

The City Engineer and Zoning Administrator and other appropriate city officials shall review the preliminary plat and shall transmit a report of their findings and recommendations together with any supporting material to the Planning Commission prior to the meeting at which the plat is to be considered. The subdivider shall be required to pay the cost of the services and the Council shall establish a fee from time to time to cover the costs. The City Engineer or Zoning Administrator may require additional information which shall be provided at the subdividers cost.

151.67.D

The Planning Commission may require qualified technical and staff services such as economic and legal to review the preliminary plat and advise on its suitability regarding general planning; conformity with plans of other private and public organizations and agencies; adequacy of proposed water supply, sewage disposal, drainage and flood control, special assessment procedures and other features. The subdivider shall also be required to pay the cost of the services.

151.67.E

Within 30 days after the plat has been filed and after reports and certifications have been received as requested, the Planning Commission shall hold a public hearing on the preliminary plat after notice of the time and place thereof has been published once in the official newspaper at least ten days before

the day of the hearing. This shall constitute the public hearing on the plat as required by state law. Within 30 days of the conclusion of the public hearing, the Planning Commission shall make its report to the Council.

151.67.F

The Planning Commission may forward to the Council a favorable, conditional, or unfavorable report and the reports shall contain a statement of findings and recommendations.

151.67.G

The Council shall act to approve or disapprove. The preliminary application must be approved or disapproved by the Council within 120 days following the delivery of an application completed in compliance with these regulations by the applicant, unless an extension of the review period has been agreed to by the applicant. If the city fails to preliminary approve or disapprove an application within the review period, the application shall be deemed approved, and upon demand the city shall execute a certificate to that effect. If the Council disapproves the preliminary plat, the grounds for any disapproval shall be set forth in the minutes of the Council meeting and reported to the owners or subdividers.

151.67.H

The approval of a preliminary plat is an acceptance of the general layout as submitted, and indicates to the subdivider that he or she may proceed toward preparation of a final plat in accordance with the terms of approval and provisions of the subdivision regulations.

151.67.I

During the intervening time between approval of the preliminary plat and the signing of the final plat, the subdivider must submit acceptable engineering plans for all required improvements to the City Engineer for review.

151.67.J

In the case of all subdivisions, the Planning Commission shall recommend denial of, and the Council may deny, approval of a preliminary or final plat if it makes any of the following findings:

1) That the proposed subdivision, including the design, is in conflict with any adopted component of the comprehensive plan.

2) That the physical characteristics of this site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development or use contemplated;

3) That the site is not physically suitable for the proposed density of development;

4) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage;

5) That the design of the subdivision or the type of improvements is likely to cause serious public health problems; and

6) That the design of the subdivision or the type of improvements will conflict with easements of record.

151.68 Final Plat

151.68.A

The subdivider shall engage a registered land surveyor to prepare a final plat which shall constitute that portion of the preliminary plat which the subdivider proposes to record and develop at the time.

151.68.B

The subdivider shall submit six or more copies of the final plat to the Zoning Administrator at least seven days before the Planning Commission meeting at which the plat is to be considered. The final plat shall be submitted within one year of preliminary plat approval; otherwise, the approval shall become null and void. In the event the preliminary plat is not entirely platted in final form within five years of approval, the preliminary plat shall be considered null and void.

151.68.C

The final plat shall have incorporated all changes required by the city, County Engineer regarding county roads, and State Department of Transportation regarding state highways, but in all other respects it shall conform to the preliminary plat as approved.

151.68.D

The Zoning Administrator shall transmit one copy of the final plat to each member of the Planning Commission, City Engineer, City Attorney, and other appropriate city officials.

151.68.E

The city staff shall review the final plat and shall transmit reports of their recommendations to all Planning Commission members prior to the meeting at which plat is to be considered.

151.68.F

The Planning Commission shall study the final plat, considering the reports of the City Engineer, City Attorney, and other city departments and/or employees, and then shall transmit its recommendations to the Council within 30 days of submittal to the Zoning Administrator.

151.68.G

The Council shall act upon the final plat within 30 days of receiving the recommendations of the Planning Commission, whereupon the Clerk-Treasurer shall notify the subdivider of the Councils action. Upon request by the applicant for final approval by the city, the city shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of the regulations and all conditions and requirements upon which the preliminary approval was conditioned, either through performance or agreements assuring performance. If the city fails to certify final approval within the time frame, and if the applicant has complied with all conditions or requirements, the final plat shall be deemed approved and upon demand, the city shall execute a certificate to that effect.

151.68.H

Upon approval of the final plat by the Council, the subdivider shall record the final plat with the Polk County Recorder, as provided for by that office, within 60 days after approval. Otherwise the approval of the final plat shall be considered void. The subdivider shall, within 30 days of recording, furnish the Clerk-Treasurer with a reproducible print of the final plat showing evidence of the recording.

151.69 Effect of Subdivision Approval

For one year following preliminary approval and for two years following final approval, unless the subdivider and the city agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development, density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the city may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the city may by resolution or agreement grant the rights referred to herein for the period of time longer than two years which it determines to be reasonable and appropriate.

151.70 Disclosure by Seller; Purchasers Action for Damages

A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted subdivision regulations apply, shall attach to the instrument of conveyance either: recordable certification by the Clerk-Treasurer that the subdivision regulations do not apply, or that the subdivision has been approved by the Council or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the Council in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations; or a statement which names and identifies the location of the appropriate city offices and advises the grantee that subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, nonapplicability, or waiver from the city. In any action commenced by a buyer of a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this subdivision shall be grounds for damages. If the buyer establishes his or her right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding 5% of the purchase of the land.

151.71 Modifications, Exceptions and Variances

The Council may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with these regulations would cause exceptional and undue hardship provided the relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variations from the requirements of this chapter in specific which, in its opinion, do not affect the comprehensive plan or the intent of this chapter. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons which justify the modifications. The Council may approve variances from these requirements in specific cases which in its opinion meets the above requirements and do not adversely affect the purposes of this chapter.

151.72 Planned Unit Developments

Upon receiving a report from the Planning Commission, the Council may grant a variance from the provisions of these regulations in the case of a planned unit development, as defined in the zoning chapter, provided that the Council shall find that the proposed development is fully consistent with the purposes and intent of these regulations. This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques.

151.73 Minor Subdivisions

151.73.A

In the case of a subdivision resulting in five parcels or less situated in the city where conditions are well defined, the Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of a recorded plat, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the zoning chapter, the division may be approved by the Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

151.73.B

In the case of a request to divide a lot which is a part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot or to create two lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with this regulation or the zoning chapter, the division may be approved by the Council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

151.99 Penalty

Every person who violates a section, subdivision, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both. The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Chapter 152: Zoning

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GENERAL PROVISIONS

152.01 Intent and Purpose

This chapter is adopted for the purpose of:

A) Protecting the public health, safety, comfort, convenience and general welfare;

B) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;

C) Conserving the natural and scenic beauty and attractiveness of the city;

D) Conserving and developing natural resources in the city;

E) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city;

F) Minimizing environmental pollution; and

G) Conserving energy through the use of solar systems and the encouragement of solar and earth-sheltered structures for commercial, industrial, and residential uses.

152.02 Rules of Language Construction

Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in the definition. All measured distances expressed in feet shall be to the nearest tenth of a foot.

152.03 Definitions

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

ACCESSORY USE OR STRUCTURE A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADULT ARCADE An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE An establishment that has as a substantial portion of its stockintrade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representation that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

ADULT CABARET A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

ADULT USE ESTABLISHMENTS Adult use establishments include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

AGRICULTURAL BUILDING OR STRUCTURE Any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

AGRICULTURAL USE The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:

1) Field crops, including barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
2) Livestock, including dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
3) Livestock products, including milk, butter, cheese, eggs, meat, fur and honey.

APARTMENT A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two dwelling units.

APARTMENT BUILDING, HIGH RISE An apartment building three or more stories in height, whose upper floors are accessible by elevator, and whose dwelling units are accessible through common corridors.

APARTMENT BUILDING, WALKUP An apartment building not more than three stories above grade whose upper floors are accessible by stairs, and whose dwelling units are usually accessible through common corridors.

AUTO OR MOTOR VEHICLE REDUCTION YARD A lot or yard where one or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also JUNK YARD).

AUTOMOBILE SERVICE STATION A building designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles or any portion thereof.

BASEMENT Any area of a structure, including crawl space, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST INN An owner occupied building at least 75 years old designed for and used as a single-family or two-family dwelling that provides four or fewer lodging rooms accommodating no more than eight adults, in which meals are provided to overnight guests, and that is open to the traveling public for a stay not to exceed 20 days.

BOARDING HOUSE (ROOMING OR LODGING HOUSE) A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodging are provided for three or more persons, but not to exceed 20 persons.

BUILDING Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when the structures are divided by party walls without openings, each portion of the building so separated shall be deemed a separate building.

BUILDING LINE A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from the right-of-way.

BUILDING HEIGHT The vertical distance to be measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

BUILDING SETBACK The minimum horizontal distance between the building and a lot line, or the normal high water mark of a stream or river.

BUSINESS Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

CARPORT An automobile shelter having two or more sides open. Floor of carport shall be of approved non-combustible material.

CELLAR That portion of a building having more than one-half of the floor-to-ceiling height below the average grade of the adjoining ground.

CHURCH A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLEAR-CUTTING The removal of an entire stand of vegetation.

CLUSTERING/CLUSTER HOUSING The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land.

COMMERCIAL SPEECH Speech advertising a business, profession, commodity, service or entertainment.

COMMISSIONER Commissioner of the Department of Natural Resources.

COMPREHENSIVE PLAN A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the city and its environs, as defined in the Municipal Planning Act, and includes any unit or part of the plan separately adopted and any amendment to the plan or parts thereof.

CONDITIONAL USE A specific type of structure or land use that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

1) Certain conditions as detailed in the zoning regulations exist; and
2) The structure and/or land use conform to the comprehensive land use plan (if one exists) and are compatible with the existing neighborhood.

CONDOMINIUM A form of individual ownership of a multi-family building with joint responsibility for maintenance and repairs of the common property. In a condominium, each apartment or townhouse unit is owned outright by its occupant and each occupant also owns a share of the land and other common property of the building.

COOPERATIVE A multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the total enterprise.

CURB LEVEL The grade elevation established by the Council of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this chapter.

DRIVE-IN Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

DWELLING UNIT A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes. There are three principal types:

1) **MULTIPLE-FAMILY** A residence designed for or occupied by three or more families, either wholly (attached) or partially a part of a larger structure (detached), with separate housekeeping and cooking facilities for each.
2) **SINGLE-FAMILY** A free-standing (detached) residence structure designed for or occupied by one family only.
3) **TWO-FAMILY** A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

DWELLING, ATTACHED One which is joined to another dwelling or building at one or more sides by a party wall or walls.

DWELLING, DETACHED One which is entirely surrounded by open space on the same lot.

EARTH SHELTERED BERM An earth covering on the above grade portions of building walls.

EARTH SHELTERED BUILDING A building constructed so that 50% or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of livable space in residential units and of usable space in non-residential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or substructure for aboveground construction. A partially completed building shall not be considered earth sheltered.

EASEMENT A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining walkways; roadways; utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways and gas lines.

EFFICIENCY UNIT A dwelling unit with one primary room which doubles as a living room, kitchen and bedroom.

EQUAL DEGREE OF ENCROACHMENT A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

ESSENTIAL SERVICES Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection herewith but not including buildings. For the purpose of this chapter, the word buildings does not include structures for essential services.

ESTABLISHMENT A business, organization, public or private institution occupying a permanent structure.

EXTERIOR STORAGE (INCLUDES OPEN STORAGE) The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

EXTRACTION AREA Any non-agricultural artificial excavation of earth exceeding 50 square feet of surface area of two feet in depth, other than activity involved in preparing land for earth sheltered or conventional construction of residential, commercial, and industrial buildings, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth, except that public improvement projects shall not be considered **EXTRACTION AREAS**.

FAMILY An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

FARM A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. The farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

FEEDLOTS, LIVESTOCK The place of confined feeding of livestock, poultry or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of the feeding of animals.

FENCE Any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

FLOOD A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in inundation of normally dry areas.

FLOOD FREQUENCY The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study and Letter of Map Revision for the City of Crookston and is comprised of those areas designated Zone AE" for the Red Lake River that are outside of the designated floodway on the Flood Insurance Rate Map and those Zone AE areas designated for the North and South Ponding Areas on the Flood Insurance Rate Map.

FLOOD PLAIN The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOOD PROOFING A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

FLOOR AREA The gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway or similar attachment.

FLOOR AREA, GROSS The sum of the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless the area constitutes a story.

FLOOR AREA RATIO The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which the building or buildings are located.

FORESTRY The use and management including logging of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, and fences.

FRONTAGE That boundary of a lot which abuts an existing or dedicated public street.

GARAGE, PRIVATE An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

GRADE The average of the finished level at the center of the exterior walls of the building. For an earth sheltered building GRADE means the average of the finished level at the center of the lot. For a building with earth berms but less than 50% earth covering grade means the average of the finished level at the center of the building at the beginning of the earth berm.

GROUP FACILITY OR HOME A residence utilized by unrelated people for the purpose of rehabilitation.

HISTORIC DISTRICT That portion of the Central Business District (C-1) which was placed on the National Register of Historic Places on November 23, 1984, a detailed description of which is on file and available for public inspection in the office of the Clerk-Treasurer.

HOME OCCUPATION Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit or accessory structure. The uses include professional offices, minor repair services, photo or art studios, dressmaking, barber shops, beauty shops, tourist homes, or similar uses.

HORTICULTURE Horticulture uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

HOTEL A building which provides a common entrance, lobby, halls and stairway and in which 20 or more people can be, for compensation, lodged with or without meals.

JUNK YARD An open area where waste, used, or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

KENNEL Any structure or premises on which four or more dogs over four months of age are kept for sale, breeding, profit, and the like.

LANDSCAPING Plantings, including trees, grass, ground cover, and shrubs.

LODGING ROOM A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities each room which provides sleeping accommodations shall be counted as one lodging room.

LOT A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

LOT AREA The area of a lot in a horizontal plane bounded by the lot lines.

LOT, CORNER A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

LOT COVERAGE The area of the zoning lot occupied by the principal buildings and accessory buildings. Earth berms are not to be included in calculating lot coverage. Only the above grade portions of an earth sheltered building should be included in lot coverage calculations.

LOT DEPTH The mean horizontal distance between the front lot line and the rear lot lime of a lot.

LOT LINE The property line bounding a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for applying this chapter.

LOT LINE, FRONT That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

LOT LINE, REAR That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

LOT LINE, SIDE Any boundary of a lot which is not a front lot line or a rear lot line.

LOT OF RECORD Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditors Subdivision or a Registered Land Survey that has been recorded in the office of the County Recorder for Polk County, Minnesota, prior to the effective date of this chapter.

LOT, SUBSTANDARD A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this chapter.

LOT, THROUGH A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this chapter.

LOT WIDTH The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth.

LOWEST FLOOR The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a buildings lowest floor.

MANUFACTURED HOME A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include the term recreational vehicle.

METES AND BOUNDS A method of property description by means of their direction and distance from an easily identifiable point.

MINING The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided the removal is an approved item in the building permit.

MOBILE HOME A manufactured relocatable residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking and sanitation.

MOBILE HOME LOT A parcel of land for the placement of a mobile home and the exclusive use of its occupants.

MOBILE HOME PARK A contiguous parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association or corporation.

MODULAR HOME A non-mobile housing unit which is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.

MOTEL (TOURIST COURT) A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

MULTIPLE RESIDENT (APARTMENT BUILDING) Three or more dwelling units in one structure.

NON-COMMERCIAL SPEECH Dissemination of messages not classified as Commercial Speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

NURSERY LANDSCAPE A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

NURSING HOME A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in M.S. SEC. 144.50, as it may be amended from time to time.

OBSTRUCTION Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water.

OFF-STREET LOADING SPACE A space accessible from a street, alley or driveway for the use of commercial trucks or other vehicles while loading or unloading merchandise or materials.

OPEN SALES LOT (EXTERIOR STORAGE) Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

ORDINARY HIGHWATER MARK A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary highwater mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary highwater mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

PARKING SPACE A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

PEDESTRIAN WAY A public or private right-of-way across or within a block, to be used by pedestrians.

PLANNED UNIT DEVELOPMENT A residential development whereby buildings are grouped or clustered in and around common open space areas in accordance with a prearranged site plan and where the common open space is owned by the homeowners and usually maintained by a homeowners association.

PLANNING COMMISSION The Planning Commission of Crookston except when otherwise designated.

PREFABRICATED HOME Non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

PRINCIPAL USE OR STRUCTURE All uses or structures that are not accessory uses or structures.

PROPERTY LINE The legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

PROPERTY OWNER Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.

PROTECTIVE COVENANTS A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

PUBLIC LAND Land owned or operated by city, school district, county, state or other governmental units.

PUBLIC WATER A body of water capable of substantial beneficial public use. This shall be construed to mean any body of water which has the potential to support any type of recreational pursuit or water supply purpose. However, no lake, pond or flowage of less than 25 acres in size and no river or stream having a total drainage area less than two square miles need be regulated by the city for the purpose of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner shall be exempt from the provisions of the statewide standards and criteria.

REACH A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECLAIMED LAND The improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

RECREATION, COMMERCIAL Includes all uses such as bowling alleys, roller and skating rinks, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

RECREATION EQUIPMENT Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, play houses exceeding 25 square feet of floor area, or sheds utilized for storage of equipment.

RECREATION, PUBLIC Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the purpose at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

RECREATIONAL VEHICLE A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Chapter, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

REGIONAL FLOOD A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. REGIONAL FLOOD is synonymous with the term base flood used in the Flood Insurance Study.

REGISTERED LAND SURVEY A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number (see M.S. §508.47, as it may be amended from time to time).

REGULATORY FLOOD PROTECTION ELEVATION The elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

ROAD A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated. Ingress and egress easements shall not be considered roads.

ROOMING HOUSE A building designed for or used as a single-family or two-family dwelling, all or a portion of which contains rooming units which accommodate three or more persons who are not members of the keepers family. Rooms, or meals, or both, are provided for compensation on a periodic payment basis.

SATELLITE DISH ANTENNA An outside parabolic antenna used or useful for the reception of communication signals transmitted by satellite.

SELECTIVE CUTTING The removal of single scattered trees.

SEXUAL ENCOUNTER ESTABLISHMENT An establishment other than a hotel, motel, or similar establishment offering public accommodations, which for any form of consideration, provides a place where two or more persons may congregate, associate, or 'consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does

not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

SIGN Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known which are visible from any public highway, street, or public property and used to attract attention.

SIGN, A-FRAME A sign whichis double-faced with an A-shaped frame composed of two (2) sign boards attached at the top and separated at the bottom, and not supported by a structure in the ground.

SIGN, ADVERTISING Any sign making anything known but excluding real estate signs, identification signs, home occupation signs, memorial signs, and public signs.

SIGN AWNING Any sign affixed to or contained as a part of a hood or canopy constructed of flexible, translucent or fabric type material extending over all or a part of the area immediately adjacent to a face of a building and supported from the building.

SIGN, BILLBOARD An off-premise sign that satisfies the requirements of Section 152.177(H)(4).

SIGN, CHANGEABLE COPY A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

SIGN, COMBINATION ROOF AND PROJECTING A sign or combination of signs of projecting and roof sign definition, a portion of the sign or signs being anchored to the roof and/or parapet wall of the building, the sign or combination of signs conveying the total message. If a combination of signs, each sign must convey an integral part of one message.

SIGN, FLASHING A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination, which includes the illusion of intermittent flashing by means of animation or by means of any mode of lighting which resembles zooming, twinkling or sparkling.

SIGN, GROUND A sign affixed to or erected directly upon the ground or upon a base or foundation on or in the ground.

SIGN, HOME OCCUPATION Any sign announcing the name of and/or logo associated with a home occupation.

SIGN, IDENTIFICATION Any sign announcing the name of and/or logo associated with an organization, business (except home occupation) or place.

SIGN, ILLUMINATED Any sign upon which artificial light is directed or which has an interior light source.

SIGN, MARQUEE A sign affixed to or contained as a part of any hood or canopy over the sidewalk and entrance to stores, buildings and places of public assembly extending wholly or in part across the sidewalk and supported from the building.

SIGN, MEMORIAL Any sign announcing the name of a building and date of erection or similar information when cut into any masonry surface or when constructed of bronze or other noncombustible material and attached to the building. Letters shall not exceed six inches in height when mounted or cut at an elevation less than eight feet above the sidewalk grade immediately below. Temporary signs denoting the architect, engineer, public utility, or contractor are memorial signs when placed upon the work during construction or maintenance.

SIGN, OFF-PREMISE A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

SIGN, OFF-SITE DIRECTIONAL A sign erected remote from the premises to which it has reference usually containing an arrow or other directional information to assist the public in locating the function to which it has reference.

SIGN, POLE A sign constructed of metal, plastic or other approved material affixed to or erected upon a single or double metal pole, or pole of other generally acceptable materials which conform to requirements of the sign code.

SIGN, PORTABLE A sign, flashing, illuminated, or non-illuminated, so designed as to be movable from one location to another and which is not permanently attached to ground, sales device, or structure.

SIGN, PROJECTING A sign or poster that may be affixed to the front, rear, or side wall of any building and extending over the sidewalk, the message conveyed by the sign being perpendicular with or at an angle or angles to the wall to which it is affixed. Projecting illuminated or non-illuminated signs shall, for the purpose of this chapter, be divided into four classifications:

1) Projecting signs which are affixed directly to the building wall with no visible sign structure other than the sign itself;
2) Projecting signs which are supported from above by a visible projecting rod or sign structure affixed to the building but which are free-swinging at the bottom;
3) Projecting signs supported by visible additional sign structure at two or more elevations with no part of the sign proper contacting the building to which it is affixed;
4) Projecting signs on corner buildings which signs are anchored at approximately 45 degrees from the building corner at street intersections, designed to be viewed equally from four directions.

SIGN, PUBLIC Any sign placed by governmental subdivisions or their agents announcing pedestrian and vehicular traffic directions, traffic controls, non-commercial activities, legal notices, railroad crossings, and temporary dangers or emergencies.

SIGN, REAL ESTATE Any sign anchored to resist wind loads and with an area of no more than sixteen (16) square feet announcing the sale or lease of the real property upon which it is located while the property is actually for sale or lease.

SIGN, ROOF A sign erected, constructed, or maintained on the roof of any building, not to be so construed as to include an upward extension of a wall or projecting sign.

SIGN, STRUCTURE The foundation, supports, uprights, bracing and framework for a sign, including the sign surface itself. In the case of a sign painted on the wall of a building, the sign surface is the entire sign structure.

SIGN, TEMPORARY A sign placed in a manner as not to be solidly affixed to any building, structure or land and used for advertising or leasing property or denoting architecture, engineer, public utility, or contractor.

SIGN, WALL A sign or poster that may be affixed to or painted on the front, rear, or side wall of any business building to which it has reference, the message conveyed by the sign being parallel with the wall to which it is affixed.

SIGN, WINDOW Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SOLAR ACCESS SPACE That airspace above all lots within the district necessary to prevent any improvement or tree located on said lots from casting a shadow upon any solar device located within said zone greater than the shadow cast by a hypothetical vertical wall ten feet high located along the property lines of said lots between the hours of 9:30 a.m. and 2:30 p.m., Central Standard Time on December 21; provided, however, this chapter shall not apply to any improvement or tree which casts a shadow upon a solar device at the time of the installation of said device, or to vegetation existing at the time of installation of the solar device.

SOLAR COLLECTOR A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structures energy supply.

SOLAR ENERGY Radiant energy (direct, diffuse, and reflected) received from the sun.

SOLAR ENERGY SYSTEM A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a solar energy system, the system must be permanently located for not less than 90 days in any calendar year beginning with the first calendar year after completion of construction. Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

SOLAR SKYSPACE The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost effective operation.

SOLAR SKYSPACE EASEMENT A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace must be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods.

SOLAR STRUCTURE A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

SPECIAL EVENT An event that is organized for the purposes of celebration, ceremony, reception, fundraising, corporate function, entertainment, sale, grand opening, or similar activity that takes place on a periodic basis.

SPECIFIED ANATOMICAL AREAS As used herein, specified anatomical areas means and includes any of the following:

1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES As used herein, specified sexual activities means and includes any of the following:

1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

2) sex acts, actual or simulated, including intercourse, oral copulation, sodomy;

3) masturbation, actual or simulated; or

4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this subsection.

STREET A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.

STREET, COLLECTOR A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street.

STREET, LOCAL A street intended to serve primarily as an access to abutting properties.

STREET, MAJOR OR THOROUGHFARE A street which serves or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

STREET PAVEMENT The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH The width of the right-of-way, measured at right angles to the centerline of the street.

STORY That portion of a building included between the surface of any floor and the surface of the floor next above, including below ground portions of earth sheltered buildings.

STRUCTURAL ALTERATION Any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

STRUCTURE Anything constructed or erected on the ground or attached to the ground or onsite utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 152.097(D)(1) and other similar items.

SUBDIVISION The division or redivision of a lot, tract, or parcel of land into two or more lots either by plat or by metes and bounds description.

SUBSTANTIAL DAMAGE Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

b) Any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure. For the purpose of this Chapter, historic structure shall be as defined in 44 Code of Federal Regulations, Part 59.1.

TOWNHOUSE A single-family building attached by party walls with other single family buildings, and oriented so that all exits open to the outside.

TOXIC AND HAZARDOUS WASTES Waste materials including, but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

USE The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

USE, ACCESSORY A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

USE, CONDITIONAL See **CONDITIONAL USE**.

USE, INTEGRATED A use which does not comply with all the regulations of this chapter or any amendments hereto governing the zoning district in which the use is located, and is incidental to the principal use.

USE, NONCONFORMING Use of land, buildings or structures legally existing at the time of adoption of this chapter which does not comply with all the regulations of this chapter or any amendment hereto governing the zoning district in which the use is located.

USE, PERMITTED A public or private use which itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

USE, PRINCIPAL The main use of land or buildings as distinguished from subordinate or accessory uses. A PRINCIPAL USE may be either permitted or conditional.

VARIANCE Means a modification of a specific permitted development standard required in an official control including this Chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the City's respective planning and zoning regulations.

WETLAND Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.

YARD A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this chapter. The yard extends along the lot line at right angles to the lot line to a depth or width specified in the setback regulations for the zoning district in which the lot is located.

YARD, FRONT A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which the lot is located.

YARD, REAR The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

YARD, SIDE The yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback regulations for the zoning district in which the lot is located.

ZONING ADMINISTRATOR The duly appointed person charged with enforcement of this chapter.

ZONING AMENDMENT A change authorized by the city either in the allowed use within a district or in the boundaries of a district.

ZONING DISTRICT An area or areas within the limits of the city for which the regulations and requirements governing use are uniform as defined by this chapter.

152.04 Application and Interpretation

152.04.A

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.

152.04.B

Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, city code provision, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

152.04.C

Except as in this chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered; and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this chapter.

152.05 Existing Lots

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the Polk County Recorder or Registrar of Titles, on or before June 9, 1964 may be used for single-family detached dwelling purposes provided it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve the permanent dwelling.

152.06 Separability

It is hereby declared to be the intention that the several provisions of this chapter are separable in accordance with the following:

A) If any court of competent jurisdiction shall judge any provisions of this chapter to be invalid, the judgment shall not affect any other provision of this chapter not specifically included in the judgment.

B) If any court of competent jurisdiction shall judge invalid the application of any provision of this chapter to a particular property, building, or structure, the judgment shall not affect other property, buildings, or structures.

152.07 Zoning Coordination

Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission and the adjacent community for review and comment prior to action by the Council granting or denying the zoning district classification change. A

period of at least ten days shall be provided for receipt of comments; the comments shall be considered as advisory only.

152.08 Foundations

Any structure designed to be used as a dwelling shall be placed on a foundation constructed of masonry, concrete or treated wood. Constructed and installed as required by the Minnesota State Building Code.

ZONING DISTRICTS

152.20 Division of City into Districts

The zoning districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan and are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this chapter, the city is hereby divided into the following zoning districts.

Symbol	**Name**
FR	Farm Residence
R-1	Single-Family Residential
R-2	One and Two Family Residential
R-3	Multi-Family Residential
C-1	Central Business District
C-2	Highway Commercial
C-3	Shopping Center
RC	Rural Commercial
I-1	Heavy Industrial
I-2	Light Industrial
IN	Institutional
FP	Floodplain

152.21 Zoning Map

152.21.A

The location and boundaries of the districts established by this chapter are set forth on the Official Zoning Map which is hereby incorporated as part of this chapter and which is on file with the City Administrators Office.

152.21.B

District boundary lines recorded on the zoning map are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, railroad rights-of-way lines, the center of watercourses or the corporate limit lines as they exist at the time of the enactment of this chapter. The Floodplain District is an exception and includes the actual area subject to inundation.

152.21.C

Whenever any street, alley or other public way is vacated, the zoning district adjoining that of the vacated street, alley or public way shall be automatically extended to the center of the vacated area and all area included therein shall be then and henceforth subject to all regulations of the extended district.

152.21.D

No annexation petition shall be considered unless and until a hearing has also been petitioned for placing the annexed territory in a zoning district or districts. No building permits shall be issued in annexed territory until the hearing has been held and assigned a zoning district.

152.21.E

It shall be the responsibility of the City Engineer to maintain and amend the zoning map. The Zoning Administrator shall make or cause to have made any corrections or amendments to said map after all of the procedures outlined in this chapter for the making of the revisions or amendments shall have been followed by the Planning Commission and the Council.

152.21.F

Amendments to this zoning map shall be recorded on the map within 15 days after adoption by the Council. The copy of the official zoning map shall be kept on file in the office of the City Engineer and shall be open to public inspection at all times during which the office of the Zoning Administrator is customarily open.

RESIDENTIAL DISTRICTS

152.35 Farm Residence (FR)

152.35.A Purpose

The major purpose of this district is to allow existing agricultural and conservancy areas in the outlying parts of the city that does not have central sewer services. Limited residential development will be allowed in this district and clustering of housing units will be encouraged.

152.35.B Permitted Uses

1) Commercial agriculture and horticulture.
2) Farm buildings and structures.
3) Single-family residential structures.
4) Farm drainage and irrigation systems.
5) Roadside stands for the sale of agricultural products.
6) Historic sites.
7) Public recreation.

8) Essential services - telephone, telegraph, power lines and necessary appurtenant equipment and structures.

9) Signs subject to the standards in SEC. 152.177.

10) Churches, schools.

11) City buildings, including police and fire stations.

12) Solar structures.

13) Bed and breakfast inns.

152.35.C Accessory Uses

152.35.C.1

Any incidental machinery, structure or buildings necessary to the conduct of agricultural, single-family residential, and other permitted uses subject to standards set forth in SEC. 152.167(A)(1).

152.35.C.2

Private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures subject to standards set forth in SEC. 152.167(A)(1).

152.35.D Conditional Uses

1) Multi-family residential.

2) Cemeteries.

3) Home occupations.

4) Agricultural products and livestock processing plants.

5) Hobby farms and stables.

6) Kennels.

7) Resorts.

8) Nursery and garden supplies.

9) Mining, sand and gravel operations.

10) Wind energy conversion systems.

152.35.E Performance Standards

152.35.E.1 Height Regulations

a) The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

b) This height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, chimneys, and smokestacks, church spires, or wind energy conversion systems.

152.35.E.2 Front Yard Regulations

a) Required setback distances from right-of-way.

Road Right-of-Way	Road Classification
70 ft.	State Highway
50 ft.	County Road
25 ft.	City Street

b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

152.35.E.3 Side and Rear Yard Regulations

There shall be a side yard width of not less than ten feet on each side of the building and a rear yard of not less than 50 feet.

152.35.E.4 Lot Width and Depth Regulations

a) For farm dwellings - none.

b) For non-farm single-family residences - minimum width of 200 feet and depth of 200 feet.

152.35.E.5 Lot Area Regulations

a) For farm residences - none.

b) For non-farm single-family residences - one acre.

152.35.E.6 Location of Structures

Structures shall be so located on each lot as to permit resubdivision if and when central sewer and water systems become available.

152.35.E.7 General Requirements

Additional requirements for parking, signs, sewage systems and other regulations are set forth in SEC. 152.155 through SEC. 152.181.

152.36 Single-Family Residential (R-1)

152.36.A Purpose

The major purpose of this district is to allow low density single-family dwelling units in the developing portions of the city where central sewer and water is available.

152.36.B Permitted Uses

1) Single-family residential structures.

2) Public recreation including parks and playgrounds.

3) Historic sites.

4) Churches, chapels, temples and synagogues including parish houses.

5) Elementary schools.
6) City buildings including police and fire stations.
7) Signs subject to standards in SEC. 152.177.
8) Essential services - telephone, telegraph, and power lines and necessary appurtenant equipment and structures.
9) Solar structures.
10) Home occupations.

152.36.C Accessory Uses

1) Any incidental structure or building necessary to the conduct of a permitted use subject to standards set forth in SEC. 152.167(A)(1).
2) Private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures subject to standards set forth in SEC. 152.167(A)(1).

152.36.D Conditional Uses

1) Junior and senior high schools.
2) Lodging and rooming houses.
3) Cemeteries.
4) Local neighborhood commercial.
5) Wind energy conversion systems.

152.36.E Performance Standards

152.36.E.1 Height Regulations

The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

152.36.E.2 Front Yard Regulations

a) Required setback distances.

Road Right-of-Way	Road Classification
70 ft.	State Highway
50 ft.	County Road
25 ft.	City Street

b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the corner lot. Upon proper application therefor, the Zoning Administrator may authorize, in writing, a yard of not less than 15 feet on not more than one yard of a corner lot if a reduced yard is appropriate under the circumstances. In determining whether an application for a reduced corner lot yard is appropriate, the Zoning Administrator shall consider all relevant information available, including, but not limited to, the extent to which maintenance of maximum setback is desirable given the present and anticipated use of the public ways adjoining the lot in question and the distance between the proposed structure on the corner lot and the principal structure on the adjacent lot (a distance less than that required for a rear yard shall not be allowed).

152.36.E.3 Side and Rear Yard Regulations

a) Side yard - 5 feet.

b) Rear yard - 18 feet.

152.36.E.4 Lot Area

The minimum lot size shall be 7,500 square feet.

152.36.E.5 Lot Width and Depth Regulations

a) Lot width - 70 feet.

b) Lot depth - 100 feet.

152.36.E.6 General Regulations

Additional regulations for parking, signs, sewage systems and other regulations are set forth in SEC. 152.155 through SEC. 152.181.

152.36.E.7 Dwelling Structures

Dwelling structures shall meet the following minimum standards:

a) Exceed 24 feet in width.

b) Have a minimum floor area of 800 square feet.

c) Placed on a permanent foundation.

d) Meet all other requirements of law and city code provisions.

152.37 One- and Two-Family Residential (R-2)

152.37.A Purpose

The major purpose of this district is to allow one- or two-family residential dwelling units at medium density in or near major activity centers or highways.

152.37.B Permitted Uses

1) Any use permitted in the R-1 District.

2) Two-family dwelling units.

3) Bed and breakfast inns.

152.37.C Accessory Uses

Any accessory use permitted in the R-1 District.

152.37.D Conditional Uses

1) Any conditional uses permitted in the R-1 District.

2) Four-family dwellings.

3) Townhouses and condominiums.

4) Mobile home parks.

152.37.E Performance Standards

152.37.E.1 Height Regulations

The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

152.37.E.2 Front Yard Regulations

a) Required setback distances.

Road Right-of-Way	Road Classification
70 ft.	State Highway
50 ft.	County Road
25 ft.	City Street

b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the corner lot. Upon proper application therefor, the Zoning Administrator may authorize, in writing, a yard of not less than 15 feet on not more than one yard of a corner lot if a reduced yard is appropriate under the circumstances. In determining whether an application for a reduced corner lot yard is appropriate, the Zoning Administrator shall consider all relevant information available, including, but not limited to, the extent to which maintenance of maximum setback is desirable given the present and anticipated use of the public ways adjoining the lot in question and the distance between the proposed structure on the corner lot and the principal structure on the adjacent lot (a distance less than that required for a rear yard shall not be allowed).

152.37.E.3 Side and Rear Yard Regulations

a) Side yard - 4 feet.

b) Rear yard - 18 feet.

152.37.E.4 Lot Area

a) Single-family dwelling unit - 6,000 square feet.

b) Two-family dwelling unit - 6,000 square feet per unit.

152.37.E.5 Lot Width and Depth

a) Lot width - 50 feet.

b) Lot depth - 100 feet.

152.37.E.6 General Regulations

Additional requirements for parking, signs, sewage systems and other items are set forth in SEC. 152.155 through SEC. 152.181.

152.37.E.7 Dwelling Structure Standards

Dwelling structures shall meet the following minimum standards:

a) Exceed 24 feet in width.

b) Have a minimum floor area of 800 square feet.

c) Placed on a permanent foundation.

d) Meet all other requirements of law and city code provisions.

152.38 Multi-Family Residential (R-3)

152.38.A Purpose

The major purpose of this district is to allow multi-family dwelling units including apartments and townhouses at or adjacent to major commercial concentrations or highways.

152.38.B Permitted Uses

1) Any use permitted in the R-2 District.

2) Townhouses.

3) Apartment buildings.

152.38.C Accessory Uses

1) Any accessory use permitted in the R-2 District.

2) Putting greens, shuffle board courts, picnic areas, swimming pools, community buildings and similar recreational or service areas for the use of the residents of the buildings.

152.38.D Conditional Uses

Any use permitted in the R-2 District.

152.38.E Performance Standards

152.38.E.1 Height Regulations

The maximum height of all buildings shall not exceed three stories or 40 feet.

152.38.E.2 Front Yard Regulations

a) Required setback distances.

Road Right-of-Way	Road Classification
70 ft.	State Highway
50 ft.	County Road
25 ft.	City Street

b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the corner lot. Upon proper application therefor, the Zoning Administrator may authorize, in writing, a yard of not less than 15 feet on not more than one yard of a corner lot if a reduced yard is appropriate under the circumstances. In determining whether an application for a reduced corner lot yard is appropriate, the Zoning Administrator shall consider all relevant information available, including, but not limited to, the extent to which maintenance of maximum setback is desirable given the present and anticipated use of the public ways adjoining the lot in question and the distance between the proposed structure on the corner lot and the principal structure on the adjacent lot (a distance less than that required for a rear yard shall not be allowed).

152.38.E.3 Side and Rear Yard Regulations

a) Side yard - 15 feet.

b) Rear yard - 35 feet.

152.38.E.4 Lot Area

a) The following minimum lot areas shall be required for each multi-family unit:

One-bedroom unit	2,000 square feet
Two-bedroom unit	2,600 square feet
Three-bedroom unit	2,700 square feet
Four or more bedrooms	3,000 square feet

b) No multi-family building shall be erected that provides less than 7,500 square feet of lot area.

152.38.E.5 Lot Coverage

The maximum lot coverage of multi-family units including necessary buildings shall not exceed 35%.

152.38.E.6 Parking Sign Requirements

Other general requirements for parking, signs, and the like, are set forth in SEC. 152.155 through SEC. 152.181.

152.38.E.7 Dwelling Structure Standards

Dwelling structures shall meet the following minimum standards:

a) Exceed 24 feet in width.

b) Have a minimum floor area of 800 square feet.

c) Placed on a permanent foundation.

d) Meet all other requirements of law and city code provisions.

BUSINESS DISTRICTS

152.50 Central Business District (C-1)

152.50.A Purpose

The purpose of this district is to encourage the continuation of a viable downtown area by allowing retail, service, office and entertainment facilities as well as public and semi-public uses. In addition, residential uses will be allowed to locate above the commercial establishments.

152.50.B Permitted Uses

Commercial establishments offering merchandise or services to the general public in return for compensation. The establishment to include, but not be limited to, the following:

1) Retail establishments such as groceries, bakery, department stores, hardware, drug, clothing and furniture stores.
2) Personal services such as laundry, barber, shoe repair shop and photography studios.
3) Existing drinking establishments, including restaurants, cafes and supper clubs.
4) Professional services such as medical and dental clinics, architects and attorneys fees.
5) Repair services such as jewelry and radio and television repair shops.
6) Banks, finance, insurance and real estate services.
7) Entertainment and amusement services such as motion picture theaters, bowling alleys, art galleries.
8) Lodging services such as hotel and motel.
9) Public and semi-public buildings such as post office, city hall, fire and police stations.
10) Private clubs.
11) Hospitals and medical centers.
12) Automobile parking lots, parking garages, bus stations.
13) Solar structures.
14) Churches, chapels, temples, and synagogues, including parish houses.

152.50.C Conditional Uses

1) Apartments, provided that apartments located on the first floor level must be approved by a planned unit development.
2) Auto body shops.
3) On and off-sale liquor establishments.
4) Light industry such as printing shops that require direct contact with the public
5) Wholesaling.
6) Integrated uses.

7) Extension or relocation of non-conforming uses.

8) Other uses which in the opinion of the Planning Commission and the Council are of the same general character as the permitted uses and which will not be detrimental to the Central Business District or any other district.

152.50.D Accessory Uses

Uses incidental to the principal uses such as off-street parking and loading and unloading areas, storage of merchandise.

152.50.E Performance Standards

152.50.E.1 Height Regulations

The maximum height of any building shall be four stories or 45 feet.

152.50.E.2 Front Yard Regulations

a) There shall be a front yard setback having a depth of not less than ten feet except in a block where two or more structures have been built facing the same street, the setback for the remaining lots in that block fronting on the same street shall be determined by the average setback of existing buildings.

b) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

152.50.E.3 Side and Rear Yard Regulations

152.50.E.3.a Side Yard

1) No side yard is required on commercial lots where no openings are provided in the walls of commercial buildings adjacent to the interior lot lines.

2) There shall be a side yard on the street side of all corner lots which shall have a width of not less than 50% of the front yard depth required for the adjacent lot to the rear of the corner lot, when the adjacent lot fronts on the side of the corner lot. In no case should the side yard be less than 15 feet.

152.50.E.3.b Rear Yard The minimum rear yard shall be 15 feet.

152.50.E.4 Lot Area and Coverage Standards

152.50.E.4.a Lot Area None.

152.50.E.4.b Lot Coverage No restrictions except that space shall be reserved either inside or outside the building for the loading or unloading of goods, materials and merchandise on every commercial lot. The space shall not be less than 15 feet in width for every 50 feet of building width or fraction thereof, nor less than 30 feet in length, nor less than 15 feet in height, and shall be provided with access to a street unless provided otherwise by the means as customer or employee parking space on the same premises. The location, dimensions, and means of ingress and egress of the loading and unloading space shall be designated upon the plans and specifications submitted for a building permit to the Planning Commission to determine therefrom whether or not this provision is being complied with.

152.50.E.5 Screening and Fencing

The city may require the screening or fencing of commercial uses on side and rear yards which face residential districts.

152.50.E.6 General Regulations

Requirements for signs, parking, shopping centers, and other regulations are set forth in SEC. 152.155 through SEC. 152.181.

152.51 Highway Business District (C-2)

152.51.A Purpose

This district is established to accommodate the type of businesses that are oriented to the traveling public and require highway access. To minimize unmanageable strip development, these districts should only allow the type of businesses that absolutely require highway access and exposure.

152.51.B Permitted Uses

1) Farm implement dealers.
2) Drive-in restaurant.
3) Recreation equipment sales.
4) Motels and hotels.
5) Auto service station.
6) Seasonal produce stand.
7) Auto sales lot.
8) Cafes and restaurants.
9) Solar structures.
10) Churches, chapels, temples, and synagogues, including parish houses.

152.51.C Accessory Uses

The same accessory uses as permitted in the C-1 District.

152.51.D Conditional Uses

1) Drive-in movie theater.
2) Campgrounds.
3) Wind energy conversion systems.
4) Integrated uses.
5) Extension or relocation of nonconforming uses.
6) Other uses which in the opinion of the Planning Commission and the Council are of the same general character as the permitted uses and which will not be detrimental to the Highway Business District or any other district.

152.51.E Performance Standards

152.51.E.1 Height Regulations

The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

152.51.E.2 Service Roads (C-2)

152.51.E.2.a C-2 Districts shall be located only adjacent to existing and proposed major highways. Each C-2 District shall be provided with a service road between the highway and the business establishment. To the extent possible, service roads shall have access only to the major highways and highway-business oriented traffic shall be discouraged from local residential streets.

152.51.E.2.b Service Road Standards

1) Each service road shall have a minimum of 30 feet of right-of-way exclusive of adjoining thoroughfare right-of-way.

2) Each service road shall be at least 24 feet wide and must be surfaced and have curbs.

3) Two-way traffic shall be allowed on service roads.

4) No parking shall be allowed on service roads.

5) Access from service roads to thoroughfares shall be no more frequent than one access for each 500 feet of thoroughfare frontage.

6) Maintenance of service roads shall be the obligation of either the city or the serviced businesses.

152.51.E.3 Setback Regulations from Road Right-of-Way

a) State highway - 130 feet.

b) County road - 110 feet.

c) City street - 90 feet.

d) Side lot - 20 feet.

e) Rear lot - 35 feet.

f) Lot line along Residential District - 75 feet.

g) The Council may also require screening and fencing along the lot lines adjacent to residential districts.

h) Lots platted prior to June 9, 1964 may use lot size and setback regulations in effect prior to the effective date of this chapter.

152.51.E.4 General Standards

Other standards and regulations related to parking, signs, and the like, are set forth in SEC. 152.155 through SEC. 152.181.

152.52 Shopping Center District (C-3)

152.52.A Purpose

The purpose of this district is to allow those types of businesses found in shopping centers and which serve several residential neighborhoods. These areas should have good accessibility and to the extent possible should be integrated with the public facilities as community buildings, libraries, health centers, and day care centers.

152.52.B Permitted Uses

Retail shopping center developed under the following conditions: an overall concept plan shall be submitted and approved by the city including architectural style of all structures, parking, driveways, landscaping and screening and adequate spaces for future community facilities when said facilities are to be part of the center; and, initial construction in new shopping centers shall include a minimum of 20,000 square feet of floor area. Individual stores, shops and businesses consistent with the following uses are allowed and are not subject to the concept plan approval and minimum square feet conditions required of retail shopping centers in this section:

1) Stores and shops selling the personal service or goods over a counter. These include antiques, art and school supplies, bakeries, barber shop, beauty parlor, bicycles, books and stationery, candy, cameras and photographical supplies, carpets and rugs, catering establishments, china and glassware, Christmas tree sales, clothes pressing, clothing and costume rental, custom dressmaking, department stores and junior department stores, drugs, dry goods, electrical and household appliances, florists, food, furniture, furrier shops, garden supplies, gifts, hardware, hats, hobby shops, interior decorating, jewelry, watch repair, laundry and dry cleaning pick up, laundromats, leather goods and luggage, locksmith shops, musical instruments, office supply, paint and wallpaper, phonograph records, photography studios, restaurants, shoes, sporting goods, tailoring, theater, except open air drive-in, tobacco, toys, variety stores, wearing apparel, grocery store and off-sale liquor store.

2) Offices for doctors, dentists, lawyers, real estate and similar uses to serve the adjoining residential area.

3) Automobile service stations.

4) Community facilities such as library, swimming pool, health center, day care center, religious facilities or community center.

5) On-sale wine and/or 3.2 beer in conjunction with a restaurant facility.

6) Health clubs or athletic clubs and facilities.

7) Animal hospital or clinic when contained within a building.

8) Small engine and appliance repair conducted entirely within a building and accessory to a principal use.

9) Commercial recreation including theater, athletic club, billiard room, and similar facilities when contained within a building.

10) Retail sales of auto accessories except that of installation facilities.

11) Hotels and motels.

12) Solar energy systems.

152.52.C Accessory Uses

Same accessory uses as in C-1 District.

152.52.D Conditional Uses

1) Outdoor display or sales conducted by an occupant of the shopping center.

2) On-sale liquor.

3) Multiple dwellings.

4) Wind energy conversion systems.

5) Service bays as accessory uses for the installation of auto accessories in conjunction with an appliance store or auto accessory store provided there are no more than two bays, shall be screened and oriented as required by the Council.

6) Other uses, which in the opinion of the Planning Commission and Council, are of the same general character as the permitted uses, and will not have an adverse effect on the Central Business District.

152.52.E Performance Standards

152.52.E.1 Height Regulations

The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

152.52.E.2 Setback Requirements

a) State highway - 70 feet.

b) County road - 50 feet.

c) City street - 50 feet.

d) Side lot - 20 feet.

e) Rear lot - 35 feet.

f) Lot line along residential district - 50 feet.

g) The Council may also require screening and fencing along the lot lines adjacent to residential districts.

152.52.E.3 Frontage Roads

The Council may require frontage roads, if appropriate. If frontage roads are required, the same setbacks and frontage road standards as listed in SEC. 152.051(E) shall be applicable.

152.52.E.4 General Requirements

Other standards and regulations related to parking, signs, and the like, are set forth in SEC.SEC. 152.155 through 152.181.

152.54 Rural Commercial District (RC)

152.54.A Purpose

This district is established to accommodate the type of businesses that are associated with the Highway Business District (C-2), but with horse boarding as an additional permitted use.

152.54.B Permitted Uses

1) Those uses permitted in the C-2 District.

2) Notwithstanding any language to the contrary contained elsewhere in this City Code, horse boarding.

152.54.C Accessory Uses

The same accessory uses as permitted in the C-1 District.

152.54.D Conditional Uses

The same conditional uses as authorized in the C-2 District.

152.54.E Performance Standards

152.54.E.1

The same height regulations, service roads, setbacks and general standards as set forth in the C-2 District.

152.54.E.2 Horse Boarding

All horse boarding shall be performed in accordance with a waste management plan approved by the zoning administrator and horses must be boarded inside a fully enclosed structure or building, except during transport from building to building or from building to trailer or trailer to building.

INDUSTRIAL DISTRICTS

152.65 Heavy Industry (I-1)

152.65.A Purpose

This district is intended to allow for various industrial uses including those that are heavy industries. As such, these areas should be separated from residential areas.

152.65.B Permitted Uses

1) The manufacturing, compounding, assembly, packaging, treatment or storage of the following products or materials: brewing, cement, concrete, stone cutting, brick, glass, batteries (wet cell), ceramic products, mill working, metal polishing and plating, paint (pigment manufacturing), vinegar works, rubber products, plastics, meat packing, flour, feed, grain milling, coal or tar asphalt distillation, rendering works, distillation of bones, sawmill, lime, gypsum, plaster of

Paris, glue, size, cloth, glass and glass products, machinery and electrical equipment, machine tools, and similar uses.

2) Metal and metal products, including ornamental ironwork but not including magnesium foundries.

3) Crude oil, gasoline, or other liquid storage tanks.

4) Storage of construction materials of all types completely within a building.

5) Concrete ready-mix plants and asphalt plants.

6) Paper products.

7) Porcelain products.

8) Solar structures.

9) Adult use establishments, provided that they are located no closer than 500 feet from a residential district or another adult use establishment.

152.65.C Accessory Uses

1) Off-street parking, storage garage, and buildings and loading as regulated in this chapter.

2) Buildings temporarily located for purposes of construction.

3) Essential public service facilities.

4) Essential security and safety facilities as approved by the Council.

152.65.D Conditional Uses

1) Storage, utilization, or manufacture of materials or products which could decompose by detonation.

2) Refuse or garbage disposal.

3) Auto wrecking, junk yard, used auto parts (open storage) and similar uses.

4) Incineration or reduction of waste material other than customarily incidental to a principal use.

5) Poison, fertilizer, fuel briquettes.

6) Kilns, or other heat-processes fired by means other than electricity.

7) Open storage (primary or secondary use) of any type.

8) Wind energy conversion systems.

9) Integrated uses.

10) Extension or relocation of non-conforming uses.

11) Outside aboveground storage of Class 1B flammable or combustible liquids with a 30,000 gallon maximum capacity per tank and a total capacity of not more than 120,000 gallons within a radius of 200 feet.

12) Other uses which in the opinion of the Planning Commission and the Council are of the same general character as the permitted uses and which will not be detrimental to the Heavy Industry District or any other district.

152.65.E Prohibited Uses

1) Distillation of bone, coal, tar, petroleum, grain or wood.
2) Manufacturing of bulk storage of explosive.
3) Fertilizer manufacturing, compost or storage processing of garbage, offal, dead animals, refuse or rancid fats.
4) Livestock feeding yards or slaughter houses, or processing plants.

152.65.F Performance Standards

152.65.F.1 Height Regulations

The maximum height of all buildings shall not exceed three stories or 40 feet.

152.65.F.2 Setback Regulations

a) State highway - 70 feet.
b) County road - 50 feet.
c) City street - 30 feet.
d) Side lot line - 35 feet.
e) Rear lot line - 55 feet.
f) Lot line along Residential District - 75 feet.
g) The Council may require fencing and screening along the lot lines adjacent to Residential Districts.

152.65.F.3 Lot Width

The minimum width shall be 150 square feet.

152.65.F.4 Lot Area

The minimum lot area shall be 40,000 square feet.

152.65.F.5 General Regulations

Standards and regulations related to signs, parking, and the like, are set forth in SEC. 152.155 through SEC. 152.181.

152.66 Light Industry

152.66.A Purpose

This district is intended to provide for industrial uses that may be suitably located in areas of relatively close proximity to non-industrial development. As such, industries that pose problems of air or noise pollution will be restricted from this district.

152.66.B Permitted Uses

1) Wholesale business establishments.
2) Warehouse, packing and crating establishment, truck yard or terminal.
3) Contractors shops, roofing, electrical, blacksmith, carpentry, glazing, heating, plumbing, painting, paperhanging, ventilating, welding, upholstering, fencing, buildings.
4) Storage yards for building material, coal, wood, and ice.
5) Laboratories for research and quality control.
6) Public and public utility uses.
7) The manufacture, compounding, processing, packing or treatment of the products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries and food products except the rendering of fats and oils.
8) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
9) The manufacture and maintenance of billboards and commercial advertising structures.
10) The manufacture of boats, cameras, electrical appliances, radio and television receivers, musical instruments, medical appliances and photographic equipment except film.
11) The manufacture of sporting and athletic equipment, small tools, toys, childrens vehicles, caskets, and burial vaults.
12) Trade schools.
13) Offices.
14) Animal clinics.
15) Solar structures.

152.66.C Accessory Uses

All accessory uses allowed in the I-1 District.

152.66.D Conditional Uses

1) Dwellings, provided the dwelling is not the principle use of the property. The following limitations shall apply:
   a) Maximum number of bedrooms may not exceed one.
   b) Maximum number of dwelling units per parcel may not exceed one.
   c) Off-street parking shall be provided for the use of the dwelling occupants; the number of allowable vehicles shall be limited to one more than the number of licensed drivers in residence.
2) Outdoor storage of vehicles or materials or open sales lot.
3) Restaurants, lunch counters, confectioneries, or childcare services to serve the employees of the district.

4) Mining and extraction.

5) Manufacturing, refining and processing of chemicals.

6) Wind energy conversion systems.

7) Integrated uses.

8) Extension or relocation of nonconforming uses.

9) Outside aboveground storage of Class 1B flammable or combustible liquids with a 30,000 gallon maximum capacity per tank and a total capacity of not more than 120,000 gallons within a radius of 200 feet.

10) Other uses which in the opinion of the Planning Commission and the Council are of the same general character as the permitted uses and which will not be detrimental to the Light Industry District or any other district.

152.66.E Performance Standards

152.66.E.1 Height Regulations

The maximum height of all buildings shall not exceed three stories or 40 feet.

152.66.E.2 Setback Regulations

a) State highway - 70 feet.

b) County road - 50 feet.

c) City street - 25 feet.

d) Side lot line - 35 feet.

e) Rear lot line - 50 feet.

f) Lot line along Residential District - 75 feet.

g) The Council may require fencing and screening along the lot lines adjacent to Residential Districts.

h) Lots platted prior to June 9, 1964 may use lot size and setback regulations in effect prior to the effective date of this chapter.

152.66.E.3 Lot Width

The minimum lot width shall be 100 feet.

152.66.E.4 Lot Area

The minimum lot area shall be 20,000 square feet.

152.66.E.5 General Regulations

Standards and regulations related to signs, parking, and the like, are set forth in SEC. 152.155 through SEC. 152.181.

SPECIAL USE DISTRICTS

152.80 Institutional (IN)

152.80.A Purpose

The purpose of this district is to permit various types of necessary public and semi-public uses such as educational, religious and government structures.

152.80.B Permitted Uses

1) Churches, chapels, temples and synagogues including Sunday schools and parish houses meeting the requirements of the R-1 Zone.

2) Community center.

3) Convent.

4) Educational institutions, both public and private, and including pre-schools, elementary and senior high schools and colleges and universities and incidental uses when situated on the same estate or unit of property.

5) Exhibition hall.

6) Fire station.

7) Government office buildings.

8) Medical clinics and pharmacies, hospitals and sanatoriums, philanthropic or eleemosynary institutions, correctional institutions and animal hospitals.

9) Park, playgrounds, and swimming pools.

10) Police and fire stations.

11) Solar structures.

152.80.C Conditional Uses

1) All uses allowed in the R-1 Zone subject to the requirements for R-1 Zone.

2) Those other uses which in the opinion of the Planning Commission, are of the same general character as those listed as permitted uses and which will not be detrimental to the I District. No commercial activity except as incidental to the operation of the uses set forth in division (B) above and no industries or manufacturing activity shall be permitted.

152.80.D Performance Standards

152.80.D.1 Height Regulations

No building shall exceed a height of two and one-half stories or 35 feet.

152.80.D.2 Setback Requirements

The minimum setback from the property line shall be 50 feet.

152.80.D.3 Lot Size

None.

152.80.D.4 Off-Street Loading and Unloading Berths

152.80.D.4.a Health and Medical Institutions One berth for buildings containing 10,000 to 100,000 square feet of gross floor area plus one additional berth for each additional 100,000 square feet of gross floor area or fraction thereof.

152.80.D.4.b Educational and Religious Institutions One berth for buildings containing 10,000 to 200,000 square feet of gross floor area, plus one additional loading berth for each additional 200,000 square feet of gross floor area or fraction thereof.

152.80.D.4.c Recreational and Social Facilities One berth for buildings up to 10,000 square feet of gross floor area, plus one additional berth for each additional 100,000 square feet of gross building area up to 500,000 square feet, plus one additional berth for each additional 500,000 square feet of gross building area or fraction thereof in excess of 500,000 square feet.

152.80.D.5 General Requirements

Standards and regulations related to signs, parking, and the like, are set forth in SEC. 152.155 through SEC. 152.181.

152.85 Gateway Overlay District

152.85.A Purpose

The purpose of Gateway Overlay District for transportation corridors identified herein is to promote and protect the public health, safety and welfare by providing for consistent and coordinated treatment of properties bordering and within the identified transportation corridors in the City of Crookston. The design features and development standards included in this section are intended to create a memorable and positive first impression upon those entering the city, particularly the motoring public. The identified corridors are important transportation corridors, and will continue as such with future growth of the city. Therefore, it is the purpose of the Gateway Overlay District to ensure high aesthetic quality of development along these important transportation corridors through:

1) The establishment of high standards for buildings, landscaping, and other improvements constructed on the properties bordering and within the identified transportation corridors through standards related to site planning, signage, appearance, architecture, and landscaping; and

2) The establishment of development requirements which will encourage substantial capital investments for the development of those properties and promote the quality, scale, and character of development consistent with existing and planned uses bordering and within the identified transportation corridors.

152.85.B Interpretation

In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any powers granted by any other ordinance.

152.85.C Application and Exemptions

The standards and conditions apply to all property and structures within the Gateway Overlay District unless otherwise specified herein, except that single-family residences and related accessory structures are exempt.

152.85.D Scope

The Gateway Overlay District shall be applied to and superimposed as an overlay upon other zoning districts in Chapter 152, as now existing or amended from time to time, The regulations and requirements imposed by the Gateway Overlay District shall be in addition to those established for other zoning districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

152.85.E Applicability

The Gateway Overlay District includes all land and structures, whether or not such structure is partially included, within 150 feet of either side of the right-of-way, which is now existing or later acquired, whichever is greater, for the following corridors:

1) East Robert Street from County Road 214 to Ash Street;
2) 6th Street West from North Main Street to University Avenue;
3) University Avenue;
4) West Fisher Avenue;
5) East Fisher Avenue;
6) Fairfax Avenue;
7) 3m Avenue South;
8) 3m Avenue Southwest;
9) Old Highway 75 from US Highway 75 to South Main Street; and
10) US Highway 75 from 290th Street Southwest to County Road 233/Marin Avenue.

152.85.F Prohibited Uses

Prohibited uses in the Gateway Overly District shall include:

1) Adult use establishments;
2) Transmission towers and structures, except those that, when approved by conditional use permit, are designed to blend in with the surrounding area;
3) Used prefabricated/modular home sales, and accessory structure sales; and
4) Salvage/junk yards.

152.85.G Utilities

All new and/or replacement utility lines, such as power, cable, phone, etc. shall be placed underground or located in a rear easement opposite of the corridor. Exemption: Utilities that are above voltage requirements that are unable to be buried underground.

152.85.H Buffer Yards

Yards visible from the corridor shall comply with the following requirements:

1) 25% of the yard shall be green space/landscaped and maintained;
2) Overhead doors and loading docks shall not face the corridor, except that overhead doors may be allowed if the design is similar to the exterior of the building, and if such door is not primarily used for loading/unloading supplies, access to a repair garage, or similar uses;
3) All processing, exterior storage, refuse/trash collection, grease and food collection shall be prohibited from existing in the yard and shall be fully screened if visible from the corridor;
4) Drive through/drive-in lanes shall be prohibited from being in the front yard; and
5) Ground level mechanical units, transformers, and similar components shall be screened from view of the corridor.

152.85.I Storm Water Detention/Retention Ponds

All storm water ponds visible from the corridor shall be landscaped within six feet along the edges with trees, shrubs, plants, or hedges.

152.85.J Design

All structures along the corridor shall comply with the following requirements:

1) All exterior walls shall be of consistent quality and character;
2) All accessory structures shall be similar in construction and exterior to the principle structure;
3) Any exterior building wall visible from the corridor shall be constructed of at least 25% of one or more of the following exterior materials:
   a) Clay or masonry brick;
   b) Customized concrete masonry with striated, scored, or broken faced brick type units (sealed) with color consistent with design theme;
   c) Poured in place, tilt-up, or precast concrete. Poured in place and tilt-up walls shall have a finish of stone, a texture, or a coating;
   d) Architectural flat metal panels or glass curtain walls;
   e) Stucco or Exterior Finish Insulation Systems (EFIS); or
   f) Natural or artificial stone.

152.85.K Parking Lots

Parking lots shall be landscaped around the perimeter a minimum of three feet.

152.85.L Signs

Signs shall be landscaped at the base a minimum of a three-foot radius around the sign, and the sign materials, colors, and design shall be consistent with the principal structure.

152.85.M Fencing/Screening Materials

Fencing and screening must satisfy the following requirements:

1) Made of maintenance free materials, such as stone, wrought iron, brick, etc. which are consistent with the color and design of the exterior principal structure; or

2) Made of wood that is properly maintained and stained or painted consistent with the color and design of the exterior of the principal structure;

FLOODPLAIN DISTRICT (FP)

152.90 Statutory Authorization, Findings of Fact and Purpose

152.90.A Statutory Authorization

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F, as it may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

152.90.B Findings of Fact

1) The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2) Methods Used to Analyze Flood Hazards. This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

3) National Flood Insurance Program Compliance. This Subchapter, being Sections 152.090 through 152.101, is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended from time to time, so as to maintain the communitys eligibility in the National Flood Insurance Program.

152.90.C Statement of Purpose

It is the purpose of this Subchapter to promote the public health, safety, and general welfare and to minimize those losses described in this Section by provisions contained herein.

152.91 General Provisions

152.91.A Land to Which Ordinance Applies

This Subchapter shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe.

152.91.B Establishment of Official Zoning Map

The Official Zoning Map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this Subchapter. The attached materials shall include:

1) the Flood Insurance Study for the City prepared by the Federal Emergency Management Agency dated September 1977, and the Flood Boundary and Floodway Map and the Flood Insurance Rate Map therein both dated September 1, 1977,and

2) the Letter of Map Revision Case #07-05-1774P for the City from the Federal Emergency Management Agency with an effective date of February 26, 2007, as revised by the Letter of Map Revision Case #13-05-7394P from the Federal Emergency Management Agency with an effective date of November 14, 2014, including all Flood Insurance Rate Maps, flood profiles, tables, and floodway data tables therein that will be used to establish the boundaries of the Floodway and Flood Fringe Districts within the City. The Official Zoning Map shall be on file in the Office of the City Clerk and the Zoning Administrator.

152.91.C Regulatory Flood Protection Elevation

The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

152.91.D Interpretation

152.91.D.1

In their interpretation and application, the provisions of this Subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

152.91.D.2

The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Zoning Appeals shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the City adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area in the floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Zoning Appeals and to submit technical evidence.

152.91.E Abrogation and Greater Restrictions

It is not intended by this Subchapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Subchapter imposes greater restrictions, the provisions of this Subchapter shall prevail. All other ordinances or code provisions inconsistent with this Subchapter are hereby repealed to the extent of the inconsistency only.

152.91.F Warning and Disclaimer of Liability

This Subchapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Subchapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Subchapter or any administrative decision lawfully made thereunder.

152.91.G Severability

If any section, clause, provision, or portion of this Subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Subchapter shall not be affected thereby.

152.91.H Definitions

Unless specifically defined below, words or phrases used in this Subchapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Subchapter its most reasonable application.

Accessory Use or Structure a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional Use means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

a) certain conditions as detailed in the zoning subchapter exist

b) the structure and/0r land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Equal Degree of Encroachment a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study and Letter of Map Revision for the City and is comprised of those areas designated Zone AE for the Red Lake River that are outside of the designated floodway on the Flood Insurance Rate Map and those Zone AE areas designated for the North and South Ponding Areas on the Flood Insurance Rate Map.

Flood Plain the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Flood Proofing a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

Lowest Floor the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a buildings lowest floor.

Manufactured Home a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include the term recreational vehicle.

Obstruction any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure means all uses or structures that are not accessory uses or structures.

Reach a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational Vehicle a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Subchapter, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

Regional Flood a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study and Letter of Map Revision.

Regulatory Flood Protection Elevation The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Structure anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 152.097(D)(1) and other similar items.

Substantial Damage means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

b) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure. For the purpose of this Subchapter, historic structure shall be as defined in 44 Code of Federal Regulations, Part 59.1, as it may be amended from time to time.

Variance means a modification of a specific permitted development standard required in an official control including this Subchapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

152.91.I Annexations

The Flood Insurance Rate Map panels adopted by reference into Section 152.091 (B) above may include floodplain areas that lie outside of the corporate boundaries of the City at the time of adoption of this Subchapter. If any of these floodplain land areas are annexed into the City after the date of adoption of this Subchapter, the newly annexed floodplain lands shall be subject to the provisions of this Subchapter immediately upon the date of annexation into the City.

152.92 Establishment of Zoning Districts

152.92.A Districts

152.92.A.1 Floodway District

The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 152.091 (B).

152.92.A.2 Flood Fringe District

Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study and Letter of Map Revision for the City and is comprised of those areas designated Zone AE for the Red Lake River that are outside of the designated floodway on the Flood Insurance Rate Map and those Zone AE areas designated for the North and South Ponding Areas on the Flood Insurance Rate Map.

152.92.B Compliance

No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Subchapter and other applicable regulations which apply to uses within the jurisdiction of this Subchapter. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Sections 152.093 and 152.094, respectively, shall be prohibited. In addition, a caution is provided here that:

1) New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this Subchapter and specifically Section 152.097.

2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Subchapter and specifically Section 152.099.

152.92.C

As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Subchapter and specifically as stated in Section 152.099.

152.93 Floodway District (FW)

152.93.A Permitted Uses

1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2) Industrial-commercial loading areas, parking areas, and airport landing strips.

3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4) Residential lawns, gardens, parking areas, and play areas.

152.93.B Standards for Floodway Permitted Uses

1) The use shall have a low flood damage potential.

2) The use shall be permissible in the underlying zoning district if one exists.

3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

152.93.C Conditional Uses

1) Structures accessory to the uses listed in Section 152.093(A) above and the uses listed in Sections 152.093(A)(2) thru (8).

2) Extraction and storage of sand, gravel, and other materials.

3) Marinas, boat rentals, docks, piers, wharves, and water control structures.

4) Railroads, streets, bridges, utility transmission lines, and pipelines.

5) Storage yards for equipment, machinery, or materials.

6) Placement of fill or construction of fences.

7) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 152.097(C).

8) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

152.93.D Standards for Floodway Conditional Uses

152.93.D.1 All Uses

No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

152.93.D.2

All floodway conditional uses shall be subject to the procedures and standards contained in Section 152.098(D).

152.93.D.3

The conditional use shall be permissible in the underlying zoning district if one exists.

152.93.D.4 Fill

152.93.D.4.a Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

152.93.D.4.b Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

152.93.D.4.c As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

152.93.D.5 Accessory Structures

152.93.D.5.a Accessory structures shall not be designed for human habitation.

152.93.D.5.b Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

152.93.D.5.c Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards: The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

1) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

2) To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

152.93.D.6 Storage of Materials and Equipment

152.93.D.6.a The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

152.93.D.6.b Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

152.93.D.7

Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 1036. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

152.93.D.8

A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

152.94 Flood Fringe District (FF)

152.94.A Permitted Uses

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District Permitted Uses listed in Section 152.094(B) and the "Standards for all Flood Fringe Uses" listed in Section 152.094(E).

152.94.B Standards for Flood Fringe Permitted Uses

152.94.B.1

All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

152.94.B.2

As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 576 square feet at its largest projection may be internally flood proofed in accordance with Section 152.093(D)(5)(c).

152.94.B.3

The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 152.094(B)(1).

152.94.B.4

The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

152.94.B.5

The provisions of Section 152.094(E) shall apply.

152.94.C Conditional Uses

Any structure that is not elevated on fill or flood proofed in accordance with Section 152.094(B)(1) & (2) and or any use of land that does not comply with the standards in Section 152.094(B)(3) & (4) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 152.094(D) & (E) and 152.098(D).

152.94.D Standards for Flood Fringe Conditional Uses

152.94.D.1

Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

152.94.D.1.a the enclosed area is above-grade on at least one side of the structure;

152.94.D.1.b it is designed to internally flood and is constructed with flood resistant materials; and

152.94.D.1.c it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

Design and Certification The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

Specific Standards for Above-grade, Enclosed Areas Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

a) minimum area of automatic openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

152.94.D.2

Basements, as defined by Section 152.091(H)(2), shall be subject to the following:

a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 152.094(D)(3).

152.94.D.3

All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

152.94.D.4

When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used

to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

152.94.D.5 Storage of Materials and Equipment

152.94.D.5.a The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

152.94.D.5.b Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

152.94.D.6

The provisions of Subdivision (E) of this Section shall also apply.

152.94.E Standards for All Flood Fringe Uses

152.94.E.1

All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Zoning Appeals must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

152.94.E.2 Commercial Uses

accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

152.94.E.3 Manufacturing and Industrial Uses

measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 152.094(E)(2). In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

152.94.E.4

Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multistructure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

152.94.E.5

Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

152.94.E.6

Standards for recreational vehicles are contained in Section 152.097(D).

152.94.E.7

All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

152.94.E.8

All development in the Zone AE areas designated for the North and South Ponding Areas, as shown on the Flood Insurance Rate Map, shall be subject to the provisions of the flood easements for the subject property and the flood protection standards of this Subchapter. The volume of any obstruction that is placed in the floodplain of the North and South Ponding Areas must be offset in the immediate area with a comparable volume of new flood water storage so as not to increase the 100-year flood elevation for the North or South Ponding Areas.

152.95 Subdivisions

152.95.A Review Criteria

No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Subchapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

152.95.B Removal of Special Flood Hazard Area Designation

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMAs requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

152.96 Public Utilities, Railroads, Roads and Bridges

152.96.A Public Utilities

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

152.96.B Public Transportation Facilities

Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 152.093 and 152.094. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

152.96.C On-site Sewage Treatment and Water Supply Systems

Where public utilities are not provided:

1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

152.97 Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles

152.97.A

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 152.095.

152.97.B

The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 152.094. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 152.094(E)(1), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Council.

152.97.C

All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

152.97.D

Recreational vehicles that do not meet the exemption criteria specified in Section 152.097(D)(1) shall be subject to the provisions of this Subchapter and as specifically spelled out in Sections 152.097(D)(3) & (4).

152.97.D.1 Exemption

Recreational vehicles are exempt from the provisions of this Subchapter if they are placed in any of the areas listed in Section 152.097(D)(2) and further they meet the following criteria:

a) Have current licenses required for highway use.

b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

152.97.D.2 Areas Exempted For Placement of Recreational Vehicles

a) Individual lots or parcels of record.

b) Existing commercial recreational vehicle parks or campgrounds.

c) Existing condominium type associations.

152.97.D.3

Recreational vehicles exempted in Section 152.097(D)(1) lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 152.093 and 152.094. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

152.97.D.4

New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

152.97.D.4.a Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 152.094(E)(1). No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

152.97.D.4.b All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 152.098(D)(4). The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 152.097(D)(1) (a) and (b) will be met All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 152.096(C).

152.98 Administration

152.98.A Zoning Administrator

A Zoning Administrator or other official designated by the Council shall administer and enforce this Subchapter. If the Zoning Administrator finds a violation of the provisions of this Subchapter the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 152.100.

152.98.B Permit Requirements

152.98.B.1 Permit Required

A Permit issued by the Zoning Administrator in conformity with the provisions of this Subchapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

152.98.B.2 Application for Permit

Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

152.98.B.3 State and Federal Permits

Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

152.98.B.4 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use

It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Subchapter.

152.98.B.5 Construction and Use to be as provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance

Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Subchapter, and punishable as provided by Section 152.100.

152.98.B.6 Certification

The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Subchapter. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

152.98.B.7 Record of First Floor Elevation

The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

152.98.B.8 Notifications for Watercourse Alterations

The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 1036, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

152.98.B.9 Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation

As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

152.98.C Board of Zoning Appeals

152.98.C.1 Rules

The Board of Zoning Appeals shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

152.98.C.2 Administrative Review

The Board of Zoning Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Subchapter.

152.98.C.3 Variances

The Board of Zoning Appeals may authorize upon appeal in specific cases such relief or variance from the terms of this Subchapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Zoning Appeals shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Subchapter, any other zoning regulations in the City, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

152.98.C.3.a Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

152.98.C.3.b Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

152.98.C.3.c Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

152.98.C.4 Hearings

Upon filing with the Board of Zoning Appeals of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Zoning Appeals shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Zoning Appeals shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

152.98.C.5 Decisions

The Board of Zoning Appeals shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Zoning Appeals may, so long as such action is in conformity with the provisions of this Subchapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Zoning Appeals may prescribe appropriate conditions and safeguards such as those specified in Section 152.098(D)(6), which are in conformity with the purposes of this Subchapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Subchapter punishable under Section 152.100. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

152.98.C.6 Appeals

Appeals from any decision of the Board of Zoning Appeals may be made, and as specified in this Citys official controls and also by Minnesota Statutes.

152.98.C.7 Flood Insurance Notice and Record Keeping

The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

152.98.D Conditional Uses

The Board of Zoning Appeals shall hear and decide applications for conditional uses permissible under this Subchapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for hearing and recommendation to the Board of Zoning Appeals.

152.98.D.1 Hearings

Upon filing with the Board of Zoning Appeals an application for a conditional use permit, the Board of Zoning Appeals shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

152.98.D.2 Decisions

The Board of Zoning Appeals shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 152.098(D)(6), which are in conformity with the purposes of this Subchapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Subchapter punishable under Section 152.100. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

152.98.D.3 Procedures to be followed by the Board of Zoning Appeals in Passing on Conditional Use Permit Applications Within all Flood Plain Districts

152.98.D.3.a Require the applicant to furnish the following information and additional information as deemed necessary by the Board of Zoning Appeals for determining the suitability of the particular site for the proposed use:

1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

2) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

152.98.D.3.b Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

152.98.D.3.c Based upon the technical evaluation of the designated engineer or expert, the Board of Zoning Appeals shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

152.98.D.4 Factors Upon Which the Decision of the Board of Zoning Appeals Shall Be Based

In passing upon conditional use applications, the Board of Zoning Appeals shall consider all relevant factors specified in other sections of this Subchapter, and:

a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e) The importance of the services provided by the proposed facility to the community.

f) The requirements of the facility for a waterfront location.

g) The availability of alternative locations not subject to flooding for the proposed use.

h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

l) Such other factors which are relevant to the purposes of this Subchapter.

152.98.D.5 Time for Acting on Application

The Board of Zoning Appeals shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to 152.098(D)(3), the Board of Zoning Appeals shall render a written decision within 60 days from the receipt of such additional information.

152.98.D.6 Conditions Attached to Conditional Use Permits

Upon consideration of the factors listed above and the purpose of this Subchapter, the Board of Zoning Appeals shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Subchapter. Such conditions may include, but are not limited to, the following:

a) Modification of waste treatment and water supply facilities.

b) Limitations on period of use, occupancy, and operation.

c) Imposition of operational controls, sureties, and deed restrictions.

d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

e) Flood proofing measures, in accordance with the State Building Code and this Subchapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

152.99 Nonconforming Uses

152.99.A

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Subchapter but which is not in conformity with the provisions of this Subchapter may be continued subject to the following conditions. Historic structures, as defined in Section 152.091(H)(21)(b), shall be subject to the provisions of Sections 152.099(A)(1) thru (15).

152.99.A.1

No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

152.99.A.2

Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Section 152.099(A)(13) & (16).

152.99.A.3

The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 152.093 or 152.094 for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

152.99.A.4

If any nonconforming use is discontinued for l2 consecutive months, any future use of the building premises shall conform to this Subchapter. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

152.99.A.5

If any nonconforming use or structure is substantially damaged, as defined in Section 152.091(h)(20), it shall not be reconstructed except in conformity with the provisions of this Subchapter. The applicable provisions for establishing new uses or new structures in Sections 152.093 and 152.094 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

152.99.A.6

If a substantial improvement occurs, as defined in Section 152.091(h)(21), from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 152.093 or 152.094 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

152.100 Penalties for Violation

152.100.A

Violation of the provisions of this Subchapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

152.100.B

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

152.100.B.1

In responding to a suspected Subchapter violation, the Zoning Administrator and City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct Subchapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

152.100.B.2

When a Subchapter violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Citys plan of action to correct the violation to the degree possible.

152.100.B.3

The Zoning Administrator shall notify the suspected party of the requirements of this Subchapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

152.100.B.4

If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Subchapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Subchapter.

152.101 Amendments

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
All amendments to this Subchapter, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Subchapter and said notice shall include a draft of the Subchapter amendment or technical study under consideration.

NONCONFORMING USES AND STRUCTURES

152.115 Continuation of Existing Use or Building

The lawful use of any land or buildings existing at the time of the adoption of this chapter may be continued, even if the use does not conform to the regulations of this chapter, except as provided below or as authorized by the Council.

152.116 Nonconforming Buildings

152.116.A Alterations

Except as provided in division (D)(1) below of this section, a nonconforming building or structure shall not be reconstructed or altered so as to increase the extent of its nonconformity unless the entire building or structure is changed to conform with the regulations of this chapter.

152.116.B Enlargement

Except as provided in division (D)(1) below of this section, a nonconforming building or structure shall not be added to or enlarged so as to increase the extent of its nonconformity unless the entire building or structure is changed to conform with the regulations of this chapter.

152.116.C Restoration

A nonconforming building or structure not located within the Floodway District (FW) or Flood Fringe District (FF) which is damaged by fire or other cause to the extent of more than 50% of its replacement value shall not be restored except in conformity with the regulations of this chapter.

152.117 Nonconforming Use of Building or Land

152.117.A Extension

1) A nonconforming use of a building may be extended throughout the building provided no structural alterations are made therein except as required by other codes or city code provisions.

2) A nonconforming use of land shall not be extended or enlarged except by conditional use permit.

152.117.B Relocation

A nonconforming use shall not be moved to any other part of the parcel of land upon which the use was conducted at the time of passage of this chapter except by conditional use permit.

152.117.C Abandonment

A nonconforming use of a building which has been discontinued for a period of 12 months shall not be reestablished, and any future use shall be in conformity with the regulations of this chapter.

152.117.D Maintenance

Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

152.117.E Inspection

The enforcing officer may make an annual inspection each June of all nonconforming uses and report to the Council within 60 days. He or she may enter upon or in the premises at reasonable hours for inspection purposes.

PLANNED UNIT DEVELOPMENT RESIDENTIAL ONLY

152.130 Purpose

The purposes of this subchapter are:

A) To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan and preserving the health, safety, and welfare of the citizens.

B) To allow for a mixture of residential units in an integrated and well-planned area.

C) To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.

D) To facilitate the economical provision of streets and public utilities.

152.131 Permitted Uses

Permitted uses are dwelling units in detached, clustered, semi-detached, attached, or multi-storied structures or combinations thereof.

152.132 General Requirements

A conditional use permit shall be required of all planned unit developments. The city may approve the planned unit development only if it finds that the development satisfies all the following standards in addition to meeting the requirements of SEC. 152.199, except for the time limit:

152.132.A

The planned unit development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.

152.132.B

The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.

152.132.C

Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the planned unit development.

152.132.D

The tract under consideration is under single control.

152.133 [Repealed by Ordinance 10, Series 3]

152.134 Coordination with Subdivision Regulations

152.134.A

It is the intent of this chapter that subdivision review under the subdivision regulations be carried out simultaneously with the review of a planned unit development under this subchapter. In the event that a nevv subdivision islnot associated with or included in the planned unit development, then the application review process may proceed without compliance with the subdivision review provisions (and related items) contained in this subchapter.

152.134.B

The plans required under this subchapter must be submitted in a form which will satisfy the requirements of the subdivision regulations for the preliminary and final plans required under those regulations.

152.135 Pre-Application Meeting

Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator and, if necessary, with the Planning Commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a conditional use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the planning staff to facilitate the review of the outline plan and preliminary plat.

152.136 Preliminary Development Plan

152.136.A

An applicant shall make an application for a conditional use permit following the procedural steps as set forth in SEC. 152.199.

152.136.B

In addition to the criteria and standards set forth in SEC. 152.199, for the granting of conditional use permits, the following additional findings shall be made before the approval of the outline development plan:

152.136.B.1

The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to potential surrounding uses.

152.136.B.2

152.136.B.3

Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.

152.136.B.4

The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the district.

152.136.B.5

The proposed total development is designed in a manner as to form a desirable and unified environment within its own boundaries.

152.136.C Preliminary Development Plan Documentation

The following exhibits shall be submitted to the Zoning Administrator by the proposed developer as part of the application of a conditional use permit:

1) An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planned development regulations.

2) A statement of proposed financing of the PUD.

3) A statement of the present ownership of all of the land included within the planned development and a list of property owners within 350 feet of the outer boundaries of the property.

4) A general indication of the expected schedule of development including sequential phasing and time schedules.

5) A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street right-of-way, utilities, and buildings for the property, and for the area 350 feet beyond.

6) Natural features map or maps of the property and area 350 feet beyond showing contour lines at no more than two foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition.

7) A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.

8) Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water system, streets and other public utilities.

9) An engineering report presenting results of a soils review of the site. If conditions warrant it, soil borings may also be required of the site.

10) Any additional information requested by the Planning Commission and Council that may be required for clarification of the proposed project.

152.136.D Preliminary Plat

The applicant shall also submit a preliminary plat and all the necessary documentation as required under the Subdivision Regulations of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the conditional use permit and preliminary plat may be combined into one hearing or may be held concurrently.

152.137 Final Development Plan

A) Within 60 days following the approval of the outline development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file with the Zoning Administrator a final development plan containing in final form the information required in the outline development plan plus any changes required by the city or county as a result of the public hearing. The applicant shall also submit a final plat for all or that portion to be platted.

B) The Zoning Administrator shall submit the final development plan and the final plat to the Planning Commission for review.

C) The final development plan and the final plat shall conform to the outline development plan and preliminary plan plus any changes required by the Council to the preliminary development plan.

D) The Planning Commission shall review the final development plan and final plat and make its recommendation to the Council within 60 days of receiving the final development plan and final plat.

E) The Council shall review the final outline plan and final plat and the recommendations by the Planning Commission. The Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated to the Council in writing that he or she wishes to be notified.

F) If the final development plan is approved by the Council, the Zoning Administrator shall issue a conditional use permit to the applicant. The final plat shall be submitted to the Polk County Recorders office.

152.138 Enforcing Development Schedule

The construction and provision of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction which has taken place on the site. If he or she shall find that the rate of construction of dwelling units is faster than the rate at which common open spaces and public and recreational facilities have been constructed and provided, he or she shall forward this information

to the Council, which may revoke the conditional use permit. If the developer or landowners fail to complete the open spaces and recreation areas within 60 days after the completion of the remainder of the project, the city may finish the open space areas and assess the cost back to the developer or landowner.

152.139 Conveyance and Maintenance of Common Open Space

152.139.A

All land shown on the final development plan as common open space must be conveyed under one of the following methods at the option of the city:

1) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.

2) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

152.139.B

If the common open space is conveyed to a homeowners association, and the common open space is not maintained properly to standards established by the city, the city shall have the authority to maintain the property and assess the costs back to the homeowners association.

152.140 Standards for Common or Public Open Space

No open area may be accepted as common open space under the provisions of this chapter unless it meets the following standards:

A) The location, shape, size, and character of the common open space must be suitable for the planned development.

B) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

C) Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must converse and enhance the amenities of the common open space having regard to its topography and unimproved condition.

152.141 PUD Review and Amendments

152.141.A Annual Review

The Zoning Administrator and Planning Commission shall review all PUDs within the city at least once each year and shall make a report to the Council on the status of the development in each of

the PUD Districts. If the Council finds that the development has not occurred within a reasonable time after the original approval of the conditional use for the PUD, the Planning Commission may recommend that the city revoke the conditional use permit as set forth in SEC. 152.199.

152.141.B Revision to the PUD

1) Minor changes in the location, placement, and heights of buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.

2) Approval of the Planning Commission and Council shall be required for other minor changes such as rearrangement of lots, blocks, and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

152.141.C Amendments to the PUD

Any amendment to the PUD shall require the same procedures for the application of a conditional use permit as set forth in SEC. 152.199.

PERFORMANCE STANDARDS

152.155 Purpose

The performance standards established in this subchapter are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowner shall supply data necessary to demonstrate the conformance. The data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

152.156 Solar and Earth Sheltered Structures

A) Solar energy systems, and solar and earth sheltered structures shall be a permitted use in all districts provided the system is in compliance with minimum lot requirements and setbacks.

B) Solar energy systems and solar and earthsheltered structures may be exempted from setback, height, and lot coverage restrictions by variance.

152.157 Wind Energy Conversion Systems (WECS)

152.157.A Conditional Use Permit

Each wind energy conversion system shall require a conditional use permit.

152.157.B Plans

Each application for a building permit shall be accompanied by a dimensional representation of the tower including the conversion system, base, and footings and an accurate plan containing the following information:

1) Property lines.
2) Proposed location of tower on site.
3) Location of all existing structures on site.
4) All above ground utility lines.
5) All underground utility lines within a radius equal to the proposed WECS height.
6) Boundaries of all adjacent utility easements or reserved areas.

152.157.C WECS Height

The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal distance between the base of the tower and the nearest lot line or building line. The horizontal distance may extend beyond the nearest lot line or building line provided there are no overhead utility lines or easements therefor or if the abutting area is a public alleyway. When the height exceeds these requirements, the following information shall be submitted:

1) Dimensional representation of the various structural components of the tower construction including the base and footings;
2) Design data which shall indicate basis of design, including manufacturers dimensional drawings, installation and operation instructions;
3) Certification by an independent registered professional engineer or sufficient to withstand wind load requirements for structures as established by the local building construction codes.

152.157.D Tower Access

Climbing access to the WECS tower shall be limited either by means of a fence six feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

152.157.E Wind Access

Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

152.157.F Noise

A WECS operation shall not produce noise in excess of the acceptable limits.

152.157.G Limited Use

Wind energy conversion systems installed in accordance with the requirements of this subchapter shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.

152.157.H Electromagnetic Interference

A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the operation of the WECS is likely to produce an unacceptable level of electromagnetic interference and the possible effect on the microwave communications link of which is at a level satisfactory to the Zoning Administrator.

152.157.I Airspace

A WECS shall be located or installed in compliance with the regulations of the airport approach zones and federal aviation regulations for clearance around VOR and DVOR stations.

152.157.J Interconnect

A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

152.157.K Codes

Construction, design and installation of a WECS shall comply with all local state and national electrical codes in effect at the time of installation.

152.157.L Liability

No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the Clerk-Treasurer a policy of liability insurance indemnifying applicant from liability for personal injury or property damage in the sum of at least $500,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 30 days written notice to the city before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of the policy.

152.158 Exterior Storage

152.158.A

In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pickup trucks. Boats, recreation vehicles, and unoccupied trailers, less than 36 feet in length, are permissible. There shall be no more than one each of these units. A trailer that holds more than one personal vehicle shall be considered as one unit in total. Existing uses shall comply with this provision within 12 months following enactment of this chapter.

152.158.B

In all districts, the city may require a conditional use permit for an exterior storage if it is demonstrated that the storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a nuisance.

152.159 Refuse

152.159.A

In all districts, all waste material, (with the exception of crop residue) debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for these purposes. The owner of vacant land shall be responsible for keeping the land free of refuse. Existing uses shall comply with this provision within six months following enactment of this chapter.

152.159.B

Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding seven days; inoperative shall mean incapable of movement under their own power and in need of repairs or junkyard. All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a special permit, or otherwise permitted by provisions of this chapter, shall be considered as refuse.

152.160 Blight or Blighting Factors

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. On and after the effective date of this chapter it is unlawful for any person to maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by the person.

152.160.A Junk Automobiles Defined

In any area in the city the storage upon any property of junk automobiles shall be considered a blighting factor. For the purpose of this chapter, the term **JUNK AUTOMOBILES** shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the State of Minnesota, and is either:

1) Unusable or inoperable because of lack of, or defects in component parts;
2) Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
3) Beyond repair and therefore not intended for future use as a motor vehicle; or
4) Being retained on the property for possible use of salvageable parts.

152.160.B Other Junk Defined

In any area in the city the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed 30 days shall not be allowed. The term JUNK shall include parts of machinery or motor vehicles, appliances stored in the open; remnants of wood; decayed weathered or broken construction materials no longer suitable for sale, approved building materials; metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.

152.160.C Deteriorated Structures

In any area the existence of any structure or part of any structure which because of fire, wind, or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended shall not be allowed.

152.160.D Noxious or Poisonous Vegetation

In any area the existence of any noxious or poisonous vegetation such as poison ivy, ragweed or other poisonous plants, or any weeds, grass, brush or plants, which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood shall not be allowed.

152.160.E Enforcement and Penalties

152.160.E.1

The owner and the occupant of any property upon which any of the causes of blight or blighted factors set forth in this section is found to exist shall be notified in writing by the proper city official to remove or eliminate the causes of blight or blighting factors from the property within seven days after service of the notice upon him:

a) The nature and location of the blight;

b) That the blight must be removed or properly stored within seven days of service of the notices; and

c) That if the blight is not so removed or stored, it will be removed by the city and the cost of the removal assessed against the property. The notice may be served personally or by mailing the same by registered mail, return receipt requested, to the last known address of the owner and, if the premises are occupied, to the premises. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate the causes of blight or blighting factors are in progress.

152.160.E.2

In case of failure to remove any blight as described in this division within the time prescribed, the city may order to be cut down and removed or otherwise destroyed all the noxious, inflammable or detrimental vegetation, and shall certify the cost thereof to the Clerk-Treasurer. The Clerk-Treasurer shall certify the cost to the County Auditor as a special assessment against the property involved for collection in the same manner as other special assessments. As an additional or alternative remedy, the owners of any interest in said land and the occupancy shall be jointly and severally liable for the costs and the costs shall be recoverable in any action against any of them in the name of the city.

152.160.E.3

Failure to comply with the notice within the time allowed shall constitute a violation of this chapter.

152.161 Glare

In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one foot candle (meter reading) as measured from the centerline of the street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from the property.

152.162 Adult Use Establishments

Notwithstanding any language to the contrary contained elsewhere in the City Code, adult use establishments are prohibited except where specifically authorized.

152.163 Nuisances

152.163.A Nuisance Characteristics

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts.

152.163.B Noise

152.163.B.1

It is unlawful for any person to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless the noise be reasonably necessary to the preservation of life, health; safety, or property.

152.163.B.2

Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, shall be deemed to be a violation of this chapter, but any enumeration herein shall not be deemed to be exclusive.

	I	***II***	***III***
	6:00 p.m. - 9:00 p.m. (residential districts) and		
Duration of sound	***7:00 a.m. - 6:00 p.m. (all districts)***	***6:00 p.m. - 7:00 a.m. (all other districts)***	***9:00 p.m. - 7:00 a.m. (residential district)***
Less than 10 minutes	70dB	65dB	55dB
Between 10 minutes and 2 hours	60dB	55dB	45dB
In excess of 2 hours	50dB	45dB	40dB

152.163.B.3

In determining whether a particular sound exceeds the maximum permissible sound level in the above table:

a) Sounds in excess of the residential district limitations as measured in a residential district are violative of this section whether the sound originates in a residential district or any other district;

b) During all hours of Sundays and state and federal holidays, the maximum allowable decibel levels for residential districts are as set forth in Column II of the table.

152.163.B.4

Sounds emanating from the operation of motor vehicles on a public highway; aircraft; outdoor implements such as power lawn mowers, snowblowers, power hedge clippers, and power saws; and pile drivers or jackhammers and other construction equipment are exempt from the provisions of this section except during the hours of 9:00 p.m. to 7:00 a.m. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this chapter.

152.163.C Vibration

The following vibrations are prohibited:

1) Any vibration discernible (beyond property line) to the human sense of feeling for three minutes or more duration in any one hour.

2) Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of most current standards of the United States Bureau of Mines on any structure.

152.163.D Toxic or Noxious Matter

Any use shall be so operated so as not to discharge across the boundaries of any lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein the use is located, toxic or noxious matter in the concentration as to be detrimental to or endanger the public health, safety, or welfare or cause injury or damage to property or business.

152.163.E Air Pollution

Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort, or general welfare. For the purpose of this chapter, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

152.163.F Miscellaneous Nuisances

152.163.F.1

It is unlawful for any person to store or keep any vehicle of a type requiring a license to operate on the public highway; but, without a current license attached thereto, whether the vehicle be dismantled or not, outside of an enclosed building in the residential or agricultural districts.

152.163.F.2

It is unlawful for any person to create or maintain a junkyard or vehicle dismantling yard except as provided herein.

152.163.F.3

The following are declared to be nuisances affecting public health or safety:

a) The effluence from any cesspool, septic tank, drainfield or human sewage disposal systems discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.

b) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

c) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges, or latches or providing locks to prevent access by the public.

152.164 Screening

152.164.A

Screening shall be required in all zoning use districts where any off-street parking area contains more than six parking spaces and is within 30 feet of an adjoining R-1, R-2, and R-3 Zoning Use District and where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

152.164.B

Where any business or industrial use (for example, structure, parking, or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front.

152.164.C

The screening required in this section shall consist of a solid fence, wall, or natural foliage not less than five feet high, but shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, 15 feet from the street right-of-way with landscaping between the screening and the pavement. Natural foliage, or a louvered fence or wall shall be considered solid if it blocks direct vision.

152.165 Landscaping

In the R-1, R-2, R-3, I-2, and IN Zoning Districts, all developed uses shall provide a landscaped yard along all streets. This yard shall be kept clear of all structures, storage, and off-street parking. This yard shall be at least 20 feet in depth along all streets, measured from the street right-of-way. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot.

152.166 Permitted Encroachments

The following shall be considered as permitted encroachments on front and rear setback and height requirements except as provided in this chapter:

152.166.A

In the front and rear yards: posts, off-street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks and fences, television and radio antennas under 70 feet above street elevation or 30 feet above the highest roof line, whichever is greater, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended.

152.166.B

In the rear yard: decks.

152.167 Accessory Buildings and Structures; Prohibited Dwelling Units

152.167.A Accessory Building and Structures

152.167.A.1 In Residential Districts

152.167.A.1.a Accessory building may be located within five feet of the rear, excluding garages which must be 16 feet if the vehicle door opens on the rear lot line side.

152.167.A.1.b No accessory building shall exceed the height of the principal building.

152.167.A.1.c Accessory buildings shall not occupy more than 25% of the rear yard.

152.167.A.1.d Pole buildings may be permitted only if siding, roofing and building materials are similar to the principal structure. Brick, stucco and stone dwellings justify an exemption for required matched building exteriors. Alternate materials shall only be allowed in such cases by approval of the Zoning Administrator. Corrugated metal exterior finishes are prohibited for accessory buildings.

152.167.A.2 In Commercial and Industrial Districts

152.167.A.2.a No accessory building shall exceed the height of the principal building except by conditional use permit.

152.167.A.2.b Accessory buildings may be located any place to the rear of the principal building, subject to the building code and the fire zone regulations except where prohibited by other subchapters of this chapter.

152.167.A.3 In All Districts

152.167.A.3.a Any accessory building shall be considered as an integral part of the principal building if it is located less than six feet from the principal building.

152.167.A.3.b Accessory structures located on stream or river frontage lots may be located between the public road and the principal structure provided it is clearly demonstrated that physical conditions require such a location.

152.167.B Dwelling Units Prohibited

No garage, tent, trailer, basement home or accessory building shall be used as a permanent residence.

152.168 Tree and Woodland Preservation

The following restrictions shall apply to all development:

A) Structures and other amenities shall be located in such a manner that the optimum number of trees shall be preserved.

B) Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site and that if the trees are cut, he or she will restore the density of trees to that which existed before development, but in no case shall he or she be compelled to raise the density above ten trees per acre.

C) Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

D) Development including grading and contouring shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half the crown area.

E) Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God, or diseased trees shall not be prohibited.

152.169 Wetland Preservation

152.169.A General Provisions

To the extent possible, all wetlands including marshlands and swamps shall be retained in their natural state to serve as a stormwater run-off basin and also as a wildlife habitat.

152.169.B Discharges into Wetlands

152.169.B.1

No part of any sewage disposal system requiring on-land or inground disposal of waste shall be located closer than 150 feet from the normal high water mark unless it is proven by the applicant that no effluent will immediately or gradually reach the wetland because of existing physical characteristics of the site or the system.

152.169.B.2

Organic waste which would normally be disposed of at a solid waste disposal site or which would normally be discharged into a sewage disposal system or sewer shall not be directly or indirectly discharged to the wetland.

152.169.B.3

Stormwater run-off from construction sites may be directed to the wetland only when substantially free of silt, debris and chemical pollutants and only at rates which will not disturb vegetation or increase turbidity.

152.169.C Building Constraints

152.169.C.1

The lowest floor elevation of buildings if used for living quarters or work area shall be at least three feet above the seasonal high water level of the wetland.

152.169.C.2

Development which will result in unusual road maintenance costs or utility line breakages due to soil limitations, including high frost action, shall not be permitted.

152.169.C.3

The minimum setback for all buildings shall be 75 feet from the wetland.

152.170 Traffic Control; Vacated Streets

152.170.A

The traffic generated by any use shall be channeled and controlled in a manner that will avoids congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall, to the extent possible, be forward moving with no backing into streets. On corner lots, (including rural areas) nothing shall be placed or allowed to grow with the exception of seasonal crops in such a manner as materially to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets to a distance that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection.

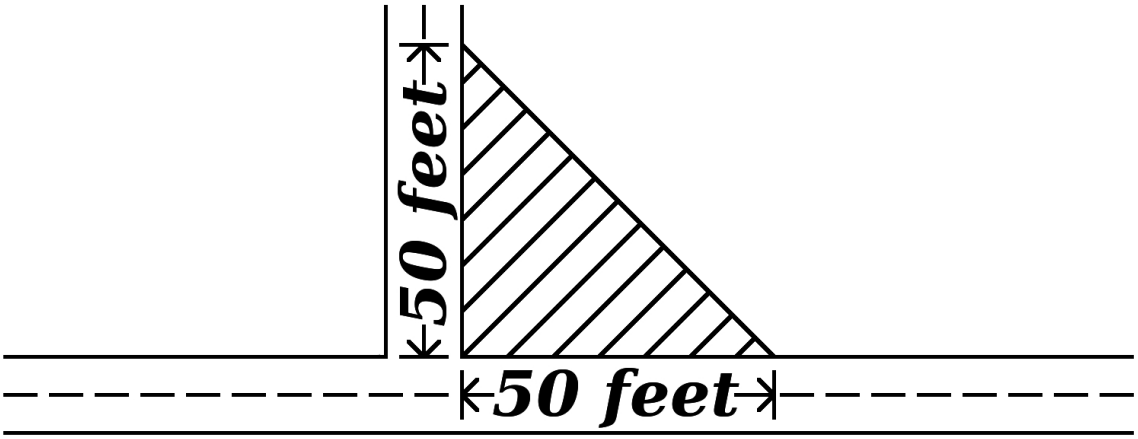

Figure 152.1: No obstruction in shaded area of clean sight triangle.

152.170.B

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by the proceeding.

152.171 Access Drives and Access

152.171.A

Access drives may not be placed closer than five feet to any side or rear lot line. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety

and efficient traffic flow.

152.171.B

Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of the access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

152.171.C

Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Zoning Administrator shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum width of ten feet with a road strength capable of supporting emergency and fire vehicles.

152.171.D

All lots or parcels shall have direct physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.

152.172 Private Sewer Systems

The standards as found in Minnesota Pollution Control Agencys Standards for Sewage Treatment Systems (6 MCAR 4.8040) are hereby adopted by reference. If there are any inconsistencies between the standards found in this chapter and the state standards, or in 6 MCAR 4.8040 amended, the state standards shall govern.[153]

152.173 Mobile Home Parks

152.173.A Purpose

The purposes of this section are to promote health, safety, order, convenience and general welfare by establishing minimum standards for mobile home parks, the location and use of mobile homes and the design, construction, alteration and arrangement of homes on said lots, authorizing the inspection of mobile home parks, and fixing penalties for violations thereof.

152.173.B Permits

152.173.B.1

It is unlawful for any person to place or maintain any mobile home park on any premises except in the R-2 and R-3 Zoning Districts.

[153]**Note:** If a mobile home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant. See M.S. §3270.095, as it may be amended from time to time.

152.173.B.2

It is unlawful for any person to construct, alter, or extend any mobile home park or structures within the park that are permanent in nature within the limits of the city unless he or she holds a valid permit issued by the Building Inspector in the name of the person for the specific construction, alteration or extension proposed, where permanent means structures that are not on wheels or mobile.

152.173.B.3

All applications for permits shall contain the following: name and address of applicants, location and legal description of the mobile home but not limited to the following: the area and dimensions of the tract of land; topography sketch of the land; the number, location and size of all mobile home lots; the location and width of internal streets and walkways, the location of water and sewer lines and riser pipes; plans and specifications of the water supply and refuse and sewage disposal facilities; plans and specifications of all buildings constructed or to be constructed within the mobile home park; the location and details of lighting and electrical systems; a landscaping plan; and park ground area and recreation equipment.

152.173.C Review of Applications

The Planning Commission shall review all applications which shall include a lot layout map and shall hold the hearings as it may deem proper with respect thereto. The finding and recommendations of the Planning Commission shall be forwarded to the Council for appropriate action.

152.173.D Inspection of Mobile Home Parks

152.173.D.1

The Zoning Administrator is hereby authorized and directed to make the inspections as are necessary to determine satisfactory compliance with this chapter, including the power to enter at reasonable times upon any private or public property for said purposes.

152.173.D.2

The Building Inspector, the Chief of Police, or their duly authorized representative, shall have the power to inspect the register containing a record of all residents of the mobile home park.

152.173.D.3

It shall be the duty of every occupant of a mobile home park to give the owner thereof or his or her agent or employee access to any part of the mobile home park at reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with this chapter.

152.173.E Environmental, Open Space and Access Requirements

152.173.E.1 General Requirements

Condition of soil, ground water level, drainage, topography shall not create hazards to the property or the health and safety of the occupants. The site should not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable or sudden flooding.

152.173.E.2 Area

Minimum total mobile park area shall be ten acres.

152.173.E.3 Soil and Ground Cover Requirements

Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone, screenings or other solid material, or protected with a grass that is capable of preventing soil erosion and of eliminating objectionable dust.

152.173.E.4 Site Drainage Requirements

The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

152.173.E.5 Use Requirements

a) No part of any park shall be used for non-residential purposes, except the uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park; and

b) Nothing contained in this subchapter shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.

152.173.E.6 Required Separation between Mobile Homes

a) Mobile homes shall be separated from each other and from other buildings and structures by at least 15 feet. Mobile homes placed end-to-end must have minimum clearance of 15 feet;

b) An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, and porch which has an opaque top or roof, shall, for purposes of all separation requirements, be considered to be part of the mobile home; and

c) Minimum lot sizes shall not be less than 5,000 square feet.

152.173.E.7 Open Space

A minimum of 500 square feet per mobile home shall be provided for definable play areas and open space within the mobile home park. The areas of open space and play area shall not be areas included within any setback nor shall they include any areas of less than 20 feet in length or width.

152.173.E.8 Required Setbacks, Buffer Strips and Screenings

a) All mobile homes shall be located at least 30 feet from any property boundary line abutting upon a public street or highway and at least 30 feet from other property boundary lines;

b) There shall be a minimum distance of 25 feet between the mobile home stand and abutting park street; and

c) All mobile home parks located adjacent to residential, recreational, commercial or industrial land uses shall provide screening such as fences, shrubs, trees, along the property boundary line separating the park and the uses, and shall be maintained by state license holder in a neat and orderly manner.

152.173.E.9 Cluster Development

Cluster development shall be encouraged; in these cases the Planning Commission and Council may vary or modify the strict application and requirements of divisions (E)(6), (7) and (8) above, as applied herein to more readily accommodate this development concept.

152.173.E.10 Maximum Density

Notwithstanding the type of development concept used, the maximum density shall be six mobile homes per acre.

152.173.E.11 Storage Buildings

a) One storage building for storage of equipment and refuse is permitted by occupant; and

b) The storage buildings shall be designed of weather resistance material that will enhance the general appearance of the lot.

152.173.F Park Street System and Car Parking

152.173.F.1 General Requirements

All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot.

152.173.F.2 Internal Streets

Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following requirements:

a) All park streets shall be a minimum of 30 feet in width from face of curb to face of curb. Streets without curb shall be considered minor streets.

b) Minor streets shall be a minimum of 18 feet in width and limited in length to 500 feet.

c) Dead-end streets shall be provided at the closed end with a reasonable turning area. All dead-end streets shall be marked with approved signs at the entrance.

152.173.F.3 Car Parking

Off-street parking areas for the use of park occupants and guests. The areas shall be furnished at a rate of at least two car spaces for each mobile home lot, of which at least $^1/_2$ of the spaces may be in compounds. Driveways and parking lots shall be paved concrete or bituminous surface. At least one space will be provided on driveway.

152.173.F.4 Required Illumination of Park Street Systems

All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at the mounting heights as will provide average levels of illumination.

152.173.F.5 Street Construction and Design Standards

152.173.F.5.a Pavements All park streets shall be provided with a paved concrete or bituminous surface.

152.173.F.5.b Intersections Within 50 feet of an intersection, streets shall be at right angles.

152.173.G Walks

All mobile home stands shall be provided with safe, convenient, all-season pedestrian access of adequate width for indented use.

152.173.H Trees

A minimum of one tree per lot is required. In open area and park area, a minimum of 20 trees per acre is required.

152.173.I Skirts

All mobile homes shall have skirts around the entire mobile home made of metal, plastic, fiberglass or comparable, non-combustible material approved by the Building Inspector and shall be painted to match the appropriate mobile home so that it will enhance the general appearance thereof.

152.173.J Water and Sewage

All mobile homes shall be serviced by the city water system, or a water system approved by the city, and by the city sanitary sewer system.

152.173.K Refuse Handling

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding, accident or fire hazards or air pollution, according to city regulations.

152.173.L Fire Protection

152.173.L.1 Litter, Rubbish, and the Like

Mobile home parks shall be kept free of litter, rubbish and other inflammable material, and state license holder shall be held liable.

152.173.L.2 Fire Extinguishers

Portable fire extinguishers rated for Classes A, B and C fires shall be kept visible in service buildings and at other locations conveniently and readily accessible for use by all of the occupants and shall be maintained in good operating condition. Their capacity shall not be less than ten pounds.

152.173.L.3 Fires

Fires shall be made only in stoves, indoor approved incinerators, and other equipment intended for those purposes.

152.173.L.4 Hydrants

Fire hydrants shall be installed.

a) The water supply system shall permit the operation of standard city fire hydrants; and

b) Fire hydrants shall be located within 300 feet of any mobile home, service building or other structure in the park.

152.173.M Responsibilities of the Park Management

152.173.M.1

The person to whom a license for a mobile home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

152.173.M.2

The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.

152.173.M.3

It shall be the duty of the operator of the mobile home park to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information: The name and address of each mobile home occupant, the name and address of the owner of each mobile home and motor vehicle by which it is towed; the make, model, year and license number of each mobile home and motor vehicle, the state, territory or country issuing the license; and the date of arrival and departure of each mobile home.

152.173.M.4

The park shall keep the register available for inspection at all times by law enforcement officers, public health officers, and other officials whose duty necessitates acquisition of the information in the register. The register record for each occupant registered shall not be destroyed for a period of three years of the registrant from the park.

152.174 Off-Street Parking

152.174.A Location

All accessory off-street parking facilities required herein shall be located as follows:

1) Spaces accessory to one and two-family dwellings on the same lot as the principal use served.
2) Spaces accessory to the multiple family dwellings on the same lot as the principal use served or within 200 feet of the main entrance to the principal building served.
3) Spaces accessory to uses located in a business, within 800 feet of a main entrance to the principal building served.
4) There shall be no off-street parking space within five feet of any street right-of-way.
5) No off-street open parking area containing more than four parking spaces shall be located closer than five feet from an adjacent lot zoned or used for residential purposes.

152.174.B General Provisions

1) Access drives may be placed adjacent to property lines except that drives consisting of crushed rock, or other non-finished surfacing shall be no closer than five feet to any side or rear lot line.
2) Each parking space shall not be less than nine feet wide and 20 feet in length.
3) When required, accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by the principal use, and the owner of the principal use shall file a recordable document with the Council requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.
4) Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.
5) Parking shall not be allowed in areas not designated for off-street parking.

152.174.C Design and Maintenance of Off-Street Parking Areas

152.174.C.1 Access

Parking areas shall be designed so as to provide adequate means of access to a public alley or street. The driveway access shall not exceed 30 feet in width and shall be so located as to cause the least interference with traffic movement.

152.174.C.2 Curbing and Landscaping

All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height not less than three feet from the side property line. When said area is for six spaces or more, a curb or fence not over five feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or fence.

152.174.C.3 Parking Space for Six or More Cars

When a required off-street parking space for six cars or more is located adjacent to a residential district, a fence approved by the Building Official shall be erected along the residential district property line.

152.174.C.4 Maintenance of Off-Street Parking Space

It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space, accessways, landscaping and required fences.

152.174.C.5 Determination of Areas

A parking space shall not be less than 300 square feet per vehicle of standing and maneuvering area.

152.174.D Other Parking in Residential Areas

Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes. Except for short-term parking (eight hours or less), guest parking, and vehicles parked in a garage or carport, the number of vehicles parked on or in front of a residential lot shall not exceed one greater than the number of persons residing on the premises and having automobile drivers licenses.

152.174.E Off-Street Spaces Required (One Space Equals 300 Square Feet)

152.174.E.1 One and Two-Family Residences

Two spaces per dwelling unit.

152.174.E.2 Multiple Dwellings

One and one-half spaces per dwelling unit.

152.174.E.3 Business and Professional Offices

One space for each 200 square feet of gross floor space.

152.174.E.4 Medical and Dental Clinics

Five spaces for doctor or dentist, plus one space for each employee.

152.174.E.5 Hospitals and Sanitoriums

At least one parking space for each three hospital beds, plus one space for each four employees, other than doctors, plus one parking space for each resident and regular staff doctor.

152.174.E.6 Educational Institutions

152.174.E.6.a Pre-Schools and Elementary Schools One space for each two employees.

152.174.E.6.b Junior and Senior High Schools One space for each two faculty and full-time employees plus one space for each seven students.

152.174.E.6.c Colleges and Universities Same as for high school except one space for each five students.

152.174.E.6.d Auditoriums, Stadiums One space for each six seats.

152.174.E.7 Drive-In Food Establishments

One space for each 15 square feet of gross floor space in building allocated to drive-in operation.

152.174.E.8 Bowling Alley

Six spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.

152.174.E.9 Automobile Service Station

At least two off-street parking spaces plus four off-street parking spaces for each service stall.

152.174.E.10 Hotel or Motel

One space per rental unit plus one space per full-time employee.

152.174.E.11 Retail Store

At least one off-street parking space for each 250 square feet of gross floor area.

152.174.E.12 Restaurants, Cafes, Bars, Taverns, Night Clubs

At least one space for each three seats based on capacity design.

152.174.E.13 Undertaking Establishments

Eight spaces for each chapel or parlor, plus one space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making up a funeral procession.

152.174.E.14 Industrial, Warehouse, Storage, Handling of Bulk Goods

At least one space for each employee on maximum shift or one space for each 2,000 square feet of gross floor area, whichever is larger.

152.174.E.15 Churches, Chapels, Temples, Synagogues

One parking space for each six seats.

152.174.E.16 Uses not Specifically Noted

As determined by the Council following review by the Planning Commission.

152.174.E.17

Within the Central Business District (C-1), the Zoning Administrator may authorize a number of parking spaces lower than the number generally required. When determining the number of parking spaces required, the Zoning Administrator shall require the property owner or operator to identify the time and days of operation of the subject use, the maximum number of employees and the expected number of clients or customers. In addition to the information provided by the property owner or operator, the Zoning Administrator shall consider the characteristics of existing like land uses, the number and characteristics of the businesses in the area of the subject use and the availability of additional private parking development. A record of the decision of the Zoning Administrator shall be kept on file in the office of the City Building Official.

152.174.F Off-Street Loading and Unloading Areas

152.174.F.1 Location

All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space.

152.174.F.2 Size

Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

152.174.F.3 Required Loading Spaces

Determined by the Building Official.

152.174.F.4 Access

Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

152.174.F.5 Surfacing

All loading berths and accessways shall be improved with a durable material to control the dust and drainage.

152.174.F.6 Accessory Use

Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.

152.174.F.7

In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.

152.174.F.8

Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m.

152.175 Auto Service Station Standards

152.175.A Lot Size

A service station site shall be a minimum of 20,000 square feet in size.

152.175.B Setbacks

The building or buildings shall be set back at least 35 feet from the street right-of-way. Near residential districts, the service station buildings, signs, and pumps shall be a minimum of 25 feet from adjoining property. In commercial areas, the structures shall be set back at least ten feet from adjoining property.

152.175.C Curbs and Gutters

Curbs and gutters shall be installed on all streets giving access to the station. There shall be a six inch curb along all interior driveways.

152.175.D Fencing and Screening

When adjacent to residential property, there shall be a screening fence. When adjacent to commercial property, there shall be a bumper-type fence about 18 inches high between the station and the adjacent commercial property.

152.175.E Vehicles

No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than 15 days.

152.175.F Exterior Storage

Exterior storage besides vehicles shall be limited to service equipment and items offered for sale. Exterior storage of items offered for sale shall be within yard setback and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

152.175.G Screening

All areas utilized for the storage or disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in orderly, clean and safe manner.

152.175.H Architecture

The station shall be of a design that is compatible with the surroundings.

152.175.I Outdoor Displays

The storage of used tires, batteries, and other items for sale outside the building shall be controlled; the items shall be displayed in specially designed containers and be limited to one or two areas well back from the right-of-way street line. Junk cars, empty cans, and other unsightly material will not be permitted in an area subject to public view.

152.175.J Other Activities

152.175.J.1

Business activities not listed in the definition of service stations and not incidental to the business in this chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for the business. The activities include, but are not limited to, the following:

a) Automatic car and truck wash;

b) Rental of vehicles, equipment, or trailers; and

c) General retail sales.

152.175.J.2

Gas pumps located at and a part of other types of business establishments shall require a conditional use permit.[154]

152.176 Drive-In Business Standards

The following standards shall apply to drive-in businesses in all districts.

152.176.A Drainage System

The entire area of any drive-in business shall have a drainage system approved by the City Engineer.

152.176.B Surface

The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.

152.176.C Fence or Screen

A fence or screen of acceptable design not over six feet in height or less than four feet shall be constructed along the property line abutting a residential district and the fence or screen shall be adequately maintained.

152.176.D General

1) Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.

2) The hours of operation shall be set forth as a condition of any building permit for drive-in business.

3) Each drive-in business serving food may have outside seating.

4) Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.

[154] Penalty, see 152.999

152.176.E Locations

1) No drive-in business serving food or beverage shall be located within 100 feet of a public or parochial school, church or any residential dwelling unit.

2) No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the Comprehensive Plan.

152.176.F Site Plan

1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.

2) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.

3) Adequate area shall be designated for snow storage so that clear visibility shall be maintained from the property to any public street.

4) The design of any structure shall be compatible with other structures in the surrounding area.

5) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 300 feet of any residential unit.

6) No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

7) No access drive shall be within 50 feet of intersecting street curb lines.

8) In the case of a drive-in theater, a solid fence not less than eight feet in height and extending at least to within two feet of the ground shall be constructed around the property.

9) The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

152.177 Signs

152.177.A Findings

The City Council hereby finds as follows:

1) Exterior signs have a substantial impact on the character and quality of the environment.

2) Signs provide an important medium through which individuals may convey a variety of messages.

3) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

152.177.B Purpose and Intent

It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside the building. The purpose and intent of this ordinance is to:

1) Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote public health, safety, and general welfare.

2) Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

3) Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the Citys goals of public safety and aesthetics.

4) Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.

152.177.C Severability

If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

152.177.D Permits

Except as otherwise provided herein, no signs shall be erected, altered, reconstructed, maintained, or moved in the city without first securing a permit from the City. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the issuing authority on the designated city application form with the appropriate submittals as required by the code and reasonably determined by the Zoning Administrator.

152.177.E Exemptions

The following signs shall not require a permit. These exemptions shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

1) Public signs.

2) Memorial signs.

3) Real estate signs.

4) Signs that are not visible from any road or public access.

152.177.F Fees

The fees for permits, services, administration, and enforcement of this Section are set forth in the Citys fee schedule as adopted by the Council from time to time.

152.177.G Prohibited Signs

It is unlawful for any person to erect or maintain any sign which is prohibited or is not specifically authorized under this section including, but not limited to:

1) Signs that, by reason of position, shape, color, or illumination, would interfere with the proper function of traffic signs or signals.

2) Signs that resemble any official marker erected by a government agency or that display the words as Stop or Danger and are not placed by a governmental agency or its agent.

3) Flashing signs, except where specifically authorized under this section.

4) Except as specifically authorized by conditional use permit under provisions contained elsewhere in this section, billboard signs.

5) Roof signs.

6) Portable signs, except where specifically authorized under this section.

7) Temporary signs, except where specifically authorized under this section.

8) Off-premises signs, except for billboard and off-site directional signs.

9) Any sign which is operated or maintained in conjunction with sound.

152.177.H Regulations

152.177.H.1 Historic District

a) Authorized Signs

i) Awning signs.

ii) Marquee signs.

iii) Wall signs.

iv) Projecting signs.

v) Window signs.

vi) A-frame signs.

vii) Ground signs.

viii) Pole signs.

b) Performance Standards

Sign Type	Number of Signs Permitted	Max Area/Length	Max Height	Special Restrictions
Wall Signs	1 per building face	50% of building length.	3 feet	
Awning/Marquee Signs	1 per building face	50% of building length.	Min. 8 feet from grade to bottom of sign	
Projecting Signs	1 per building face	Area-9 square feet Length-3 feet from building	Min. 8 feet from grade to bottom of sign	
Window Signs	Not Specifically Restricted	25% of total window area or 30 square feet of total window area, whichever is greater		Shall be installed on ground floor windows only
A-Frame Signs	1 per establishment	8 square feet	4 feet	Only displayed during business hours; no permit required
Pole Signs	1 per establishment	50 square feet	10 feet to bottom of sign	Allowed when 100 feet of street frontage or greater exists and building is setback a min. of 25 feet
Ground Signs	1 per establishment	50 square feet	9 feet	Allowed when 100 feet of street frontage or greater exists and building is setback a min of 25 feet

152.177.H.2 Central Business District (C-1)

a) Authorized Signs

i) Awning signs.
ii) Marquee signs.
iii) Wall signs.
iv) Projecting signs.
v) Window signs.
vi) A-frame signs.
vii) Ground signs.
viii) Pole signs.
ix) Changeable copy signs.

b) Performance Standards

Sign Type	Number of Signs Permitted	Max Area/Length	Max Height	Special Restrictions
Wall Signs	1 per building face	50% of building length.	3 feet	
Awning/Marquee Signs	1 per building face	50% of building length.	Min. 8 feet from grade to bottom of sign	
Projecting Signs	1 per building face	Area-9 square feet Length-3 feet from building	Min. 8 feet from grade to bottom of sign	
Window Signs	Not Specifically Restricted	25% of total window area or 30 square feet of total window area, whichever is greater		Shall be installed on ground floor windows only
A-Frame Signs	1 per establishment	8 square feet	4 feet	Only displayed during business hours; no permit required
Pole Signs	1 per establishment	50 square feet	10 feet to bottom of sign	Allowed when 100 feet of street frontage or greater exists and building is setback a min. of 25 feet
Ground Signs	1 per establishment	50 square feet	9 feet	Allowed when 100 feet of street frontage or greater exists and building is setback a min of 25 feet
Changeable Copy Signs	1 per establishment	20 square feet		Must dim to 50% brightness during nighttime hours

152.177.H.3 Highway Business District (C-2), Shopping Center District (C-3), Heavy Industry District (I-1), Light Industry District (I-2), Institutional District (IN), and Rural Commercial District (RC)

a) Authorized Signs

i) Awning signs.

ii) Marquee signs.

iii) Wall signs.
iv) Changeable copy signs.
v) Pole signs.
vi) Ground signs.

b) Performance Standards

Sign Type	Number of Signs Permitted	Max Area/Length	Max Height	Special Restrictions
Wall Signs	1 per building face	50% of building length.	1/3 of building height	
Awning/Marquee Signs	1 per building face	50% of building length.	Min. 8 feet from grade to bottom of sign	
Pole Signs	1 per establishment	125 square feet	Bottom of Sign- 12 feet Top of Sign- 25 feet	2 allowed with more than 200 lineal feet of lot frontage
Ground Signs	1 per establishment	125 square feet	11 feet	2 allowed with more than 200 lineal feet of lot frontage
Changeable Copy Signs	1 per establishment	60 square feet	Restrictions of ground, pole, and wall signs apply	Must dim to 50% brightness during nighttime hours

c) Portable Signs. Portable Signs may be installed with a sign permit for two 30-day periods within one calendar year for each establishment with a special event. The sign must be removed immediately at the end of the 30-day period.

152.177.H.4 Residential Districts (R-1, R-2, and R-3) and Farm Residence District (FR)

a) Authorized Signs

i) Wall signs.
ii) Ground signs.

b) Performance Standards

Sign Type	Number of Signs Permitted	Max Area/Length	Max Height	Special Restrictions
Wall Signs	1 per establishment	Home Occupancy- 4 square feet Identification Sign- 25 square feet	Home Occupancy- 2 feet Identification Sign- 5 feet	
Ground Signs	1 per establishment	Home Occupancy- 4 square feet Identification Sign- 40 square feet	Home Occupancy- 4 feet Identification Sign- 9 feet	

152.177.H.5 Billboard Signs

When authorized by conditional use permit, billboard signs may only be erected along U.S. Highway 2, U.S. Route 75, and their bypasses within the Highway Business District (C-2), Shopping Center District (C-3), Heavy Industry District (I-1), Light Industry District (I-2), Institutional District (IN), and Rural Commercial District (RC), and shall:

a) be landscaped around the base of the sign;

b) not be erected or maintained in such a manner or place as to obscure or otherwise physically interfere with a governmental sign or a railroad safety device or sign, or to obstruct or physically interfere with a drivers view of approaching, merging, or intersection traffic for a distance of 500 feet;

c) not be constructed or erected unless a sign permit is first secured from the City and, if required, Minnesota Department of Transportation;

d) be located so as not to obstruct any existing business or sign;

e) not be erected closer than 750 feet to any existing billboard sign on the same side of the roadway;

f) not be erected within 600 feet of a R-1 and R-2 Zoning District;

g) not be erected within 300 feet to a R-3 Zoning District;

h) be erected on a single pylon;

i) not exceed 350 square feet in surface area and no portion of the sign shall extend beyond the regular face of the sign framework; not exceed 36 feet in maximum height from the average grade to the top of the billboard sign;

j) have a minimum height of 12 feet from the average grade to the bottom of the billboard sign;

k) have a maximum width of 30 feet; be at least twelve feet from the walk or grade line;

l) be setback from the highway right of way at least 50 feet;

m) not turn on an axis, rotate, revolve or otherwise physically move; and not contain more than one sign per facing.

152.177.H.6 Off-Site Directional Signs

When authorized by conditional use permit, an off-site directional sign may only be erected as a ground sign or pole sign, if otherwise allowed in such district, and shall:

a) be landscaped around the base of the sign;

b) not be erected or maintained in such a manner or place as to obscure or otherwise physically interfere with a governmental sign or a railroad safety device or sign, or to obstruct or physically interfere with a drivers view of approaching, merging, or intersection traffic;

c) not be constructed or erected within any public right-of-way or easement;

d) be located so as not to obstruct any existing business or sign;

e) be constructed or erected within 750 feet of the referenced premises;

f) no portion of the sign shall extend beyond the regular face of the sign framework;

g) comply with the performance standards of the zoning district;

h) not turn on an axis, rotate, revolve or otherwise physically move;

i) not contain more than one sign per facing;

j) not be a changeable copy sign.

A premises referenced in an off-site directional sign shall be allowed only one off-site directional sign.

152.177.I Non-conforming Signs: Compliance

It is recognized that signs exist within the zoning district which were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this ordinance or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effected date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

1) No sign shall be enlarged or altered in a way which increases its nonconformity.

2) Should such sign or sign structure be destroyed by any means to an extent greater than 50% of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance.

3) Should such a sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved. Signs removed for repair and rehabilitation purposes may be re-installed in the same location with approval from the zoning administrator.

4) No existing sign devoted to a use not permitted by the zoning ordinance in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which it is located.

152.177.J Substitution Clause

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

152.178 Home Occupations

152.178.A Definition

A **HOME OCCUPATION** is any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit or accessory structure.

152.178.B General Regulations[155]

Customary home occupations shall be allowed in the R-1, R-2 and R-3 Districts if they meet the following conditions:

1) Not more than 25% of the gross floor area of the residence is used for this purpose.
2) Only articles made or originating on the premises shall be sold on the premises, unless the articles are incidental to a permitted commercial service.
3) No articles for sale shall be displayed so as to be visible from any street.
4) No person is employed other than a member of the household residing on the premises.
5) No mechanical or electrical equipment is used if the operation of the equipment interferes unreasonably with the desired quiet residential environment of the neighborhood and the health and safety of the residents is endangered.
6) The occupation does not generate more than two customer/client vehicles at one time.
7) The occupation must provide off-street parking for vehicles generated by the occupation.
8) A person having a home occupation shall provide proof of meeting the above seven requirements if complaints are received by the Council.

152.179 Manufactured Homes

Manufactured homes shall be permitted in the R-1, R-2 and R-3 Districts, provided they meet the following minimum standards:

A) Exceeds 24 feet in width.

B) Has a minimum floor area of 800 square feet.

C) The dwelling is placed on a permanent foundation.

D) All other requirements of law and city code provisions are met.

152.180 Satellite Dish Antennas[156]

Satellite dish antennas shall meet the following minimum standards:

A) No satellite dish antenna or portion thereof shall be constructed:

   1) In any front yard or within that portion of any side yard which is forward of the front line extended of any existing building upon the lot or parcel involved;
   2) Within the side yard or rear yard set back requirements for accessory structures;
   3) Upon the roof of any residential dwelling for four or fewer families, private garage, or other structure accessory to the residential dwelling; or
   4) To exceed the height of 35 feet or the top of the principal structure on the lot upon which it is located, whichever is less.

B) Wiring between the satellite dish antenna and a receiver shall be placed at least eight inches beneath the surface of the ground.

[155] Penalty, see 152.999
[156] Penalty, see 152.999

C) Satellite dish antennas shall be bonded to a grounding rod and shall be designed to withstand a wind force as required by the building code.

D) Satellite dish antennas which are mounted on the roof of a building or structure must be approved by a registered engineer or architect.

152.181 Bed and Breakfast Inns[157]

Bed and breakfast inns shall meet the following minimum standards:

A) Employees shall be limited to the following:

1) Members of the household residing on the premises; and
2) One person in a part-time capacity.

B) Signs must comply with the sign requirements for home occupations.

C) On-site, off-street parking must be provided as follows:

1) One space for each lodging room; and
2) One space for the owner.

D) The establishment must comply with State of Minnesota Health and Building/Fire Code requirements.

ADMINISTRATION AND ENFORCEMENT

152.195 Enforcing Officer

The Zoning Administrator and/or Building Official shall enforce this chapter and shall perform the following duties:

A) Issue occupancy, building and other permits, and make and maintain records thereof.

B) Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter.

C) Maintain permanent and current records of this chapter, including but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications therefor.

D) Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies.

E) Notify the City Attorney of any violations of this chapter for appropriate action.

152.196 Appeals and Board of Zoning Appeals (See also SEC. 32.130 and SEC. 32.131)

152.196.A

A Board of Zoning Appeals is hereby established, which shall consist of the Council, vested with the administrative authority as hereinafter provided.

[157] Penalty, see 152.999

152.196.B

The Board of Zoning Appeals shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. The appeal may be taken by any person, firm, or corporation aggrieved or by any officer, department, board or bureau of the city. The Board of Zoning Appeals shall also have the power to grant variances to the provisions of this chapter under certain conditions indicated in SEC.152.200 of this chapter. No use variances; a use different than that allowed in the zoning district, shall be issued by the Board of Zoning Appeals.

152.196.C

Meetings by the Board of Zoning Appeals shall be held within the time and upon the notice to interested parties as is provided in this chapter and its adopted rules for the transaction of its business. The Board shall, within 60 days after receiving a request for a variance, refer the proposed variance to the Planning Commission for review and comment. After receiving the comments of the Planning Commission, the Board shall make its order deciding the matter, and shall serve a copy of the order upon the appellant or petitioner by mail. Any party may appear at the meeting in person or by agent or attorney. The Board of Zoning Appeals may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be made and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the decision shall be stated and recorded. The decision of the Board shall not be final and any person having an interest affected by the decision shall have the right to appeal to District Court in the county in which the land is located on questions of law and fact. A vote of the majority of the Board of Zoning Appeals shall be necessary to reverse any decision of an administrative official of the city or to decide in favor of the applicant.

152.197 Powers and Duties of Planning Commission (See also SEC. 32.120 and SEC. 32.121)

152.197.A

The Planning Commission shall have all the powers and duties defined or granted in the statutes and the city code relating to planning, zoning and subdivision regulations and shall act in an advisory capacity to the Council in all of these areas.

152.197.B

The Planning Commission shall provide assistance to the Council and Zoning Administrator in the administration of this chapter and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings, and make recommendations to the Council on all applications for zoning amendments, variances, and conditional use permits using the criteria in SEC. 152.198 through SEC. 152.200 of this chapter.

152.198 Zoning Amendments

152.198.A Criteria for Granting Zoning Amendments

The Council may adopt amendments to this chapter and the zoning map in relation both to land uses within a particular district or to the location of the district line. The amendments shall not be issued

indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan or changes in conditions in the city.

152.198.B Kinds of Amendments

1) A change in a districts boundary (rezoning).

2) A change in a districts regulations.

3) A change in any other provision of this chapter.

152.198.C Initiation of Proceedings

Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

1) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.

2) By recommendation of the Planning Commission.

3) By action of the Council.

152.198.D Required Exhibits for Rezoning or District Regulation Changes Initiated by Property Owners

The following exhibits shall be required unless waived by the Planning Commission or Zoning Administrator.

1) A plat map showing property owners names and addresses within 350 feet of the outer boundaries of the property in question.

2) A boundary survey and preliminary building and site development plan.

152.198.E Procedure

The procedure for a property owner to initiate a rezoning or district regulation change applying to this property is as follows:

1) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures, and obtain an application form.

2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.

3) The Zoning Administrator shall transmit the application and required exhibits to the Planning Commission and shall notify all property owners within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.

4) The Planning Commission shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to said hearing. The Council may waive the mailed notice requirements for a city-wide amendment to this chapter initiated by the Planning Commission or Council.

5) The Planning Commission shall hold the public hearing and then shall recommend within 60 days, one of three actions: approval, denial or conditional approval.

6) The Planning Commission shall transmit its recommendations to the Council for its official action within 60 days after holding the public hearing.

7) The Council shall act upon the application within 60 days after receiving the recommendation of the Planning Commission.

8) No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of the request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

152.199 Conditional Use Permits

152.199.A Criteria for Granting Conditional Use Permits

In granting a conditional use permit, the Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the Comprehensive Plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the Council shall make the following findings where applicable.

1) The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

2) The use will be sufficiently compatible or separated by distance or screening frown adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

4) The use, in the opinion of the Council, is reasonably related to the overall needs of the city and to the existing land use.

5) The use is consistent with the purposes of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.

6) The use is not in conflict with the Comprehensive Plan of the city.

7) The use will not cause traffic hazard or congestion.

8) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

152.199.B Additional Conditions

152.199.B.1

In permitting a new conditional use or the alteration of an existing conditional use, the Council may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the Council considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

a) Increasing the required lot size or yard dimension.

b) Limiting the height, size or location of buildings.

c) Controlling the location and number of vehicle access points.

d) Increasing the street width.

e) Increasing the number of required off-street parking spaces.

f) Limiting the number, size, location or lighting of signs.

g) Required diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

h) Designating sites for open space.

i) Establishing a time limit for the conditional use.

152.199.B.2

The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Council; time limits, review dates, and the other information as may be appropriate.

152.199.C Required Exhibits for Conditional Use Permits

The following exhibits shall be required unless waived by the Planning Commission or Zoning Administrator.

1) A plat map showing property owners names and addresses within 350 feet of the outer boundaries of the property in question.

2) A boundary survey and preliminary building and site development plan.

152.199.D Procedure[158]

The procedure for obtaining a conditional use permit is as follows:

1) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.

2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.

3) The Zoning Administrator shall transmit the application to the Planning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.

4) The Zoning Administrator shall set the date for a public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than ten days and not more than 30 days prior to said hearing.

5) The Planning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed special use and to determine what additional requirements may be necessary to reduce the adverse effects and recommend one of three actions: approval, denial, or conditional approval.

6) The Planning Commission shall transmit, within 60 days, its recommendation to the Council for its official action.

[158]**Note:** If a mobile home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant. See M.S. §327C.095, as it may be amended from time to time.

7) The Council shall take appropriate action on the request for a conditional use permit within 60 days of receiving the recommendations by the Planning Commission. If it grants the conditional use permit, the Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and the conditions may include a time limit for the use to exist or operate.

8) Where a conditional use permit has been issued pursuant to the provisions of this chapter, the permit shall become null and void without further action by the Planning Commission or the Council unless work thereon commences within one year of the date of granting the conditional use. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 12 consecutive months.

9) In the event that the applicant violates any of the conditions set forth in this permit, the Council shall have the authority to revoke the conditional use permit.

152.200 Variances

152.200.A Criteria for Granting Variances

A variance to the provisions of this chapter may be issued by the Board of Zoning Appeals to provide relief to the landowner in those cases where this chapter imposes undue hardship or practical difficulties to the property owner in the use of his or her land. No use variances may be issued. A variance may be granted only in the event that the following circumstances exist:

1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control.

2) The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

3) That the special conditions or circumstances do not result from the actions of the applicant.

4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to owners of other lands, structures or buildings in the same district.

5) That the variance requested is the minimum variance which would alleviate the hardship. Economic conditions alone shall not be considered a hardship.

6) The variance would not be materially detrimental to the purposes of this chapter, or to other property in the same zone.

7) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood. The Board of Zoning Appeals may impose the restrictions and conditions upon the premises benefitted by a variance as may be necessary to comply with the standards established by this chapter, or to reduce or minimize the effect of the variance upon other properties in the neighborhood, and to better carry out the intent of the variance.

152.200.B Required Exhibits for Variances

The following exhibits shall be required unless waived by the Planning Commission or Zoning Administrator.

1) A plat map showing property owners names and addresses within 350 feet of the outer boundaries of the property in question.

2) A boundary survey and preliminary building and site development plan.

152.200.C Procedures

The procedure for obtaining a variance from the regulations of this chapter are as follows:

1) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.

2) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.

3) The Zoning Administrator shall transmit the application to the Board of Zoning Appeals and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.

4) The Board shall transmit the application for a variance to the Planning Commission for review and comment. Within 30 days after receiving the application the Planning Commission shall submit its recommendations to the Board of Appeals.

5) The Board shall study the application and recommendations of the Planning Commission and shall make a decision within 60 days, one of three actions: approval, denial or conditional approval.

6) No application by a property owner for a variance shall be submitted to the Board of Zoning Appeals within a six-month period following a denial of such a request, except the Board of Zoning Appeals may permit a new application if, in the opinion of the Board of Zoning Appeals, new evidence or change of circumstances warrant it.

7) The Board of Zoning Appeals may revoke a variance if any conditions established by the Board as part of granting the variance request are violated.

152.201 Enforcement Provisions and Procedures

152.201.A Enforcing Officer

It shall be the duty of the Zoning Administrator and/or Building Official to cause the provisions of this chapter to be properly enforced through the proper legal channels.

152.201.B Building Permit

Applications for building permits shall be accompanied by the following exhibits unless waived by the Planning Commission:

1) Plat map of an area including the property in question and 100 feet beyond its outer boundaries showing existing utilities, lot boundaries and dimensions, buildings, easements, foliage, and topography and waterways if pertinent. Soil tests may be included if pertinent.

2) Preliminary building and site development plan showing buildings location, dimensional parking and loading arrangement, vehicular and pedestrian access and egress, surface drainage plan, landscaping, utility plan, screening, size and location of all signs, building floor plans of all floors, elevations of all sides of buildings, sections and outline material specifications as appropriate.

152.201.C Procedure

1) Persons requesting a building permit shall fill out a building permit form available from the Building Official.

2) Completed building permit forms and a fee as may be established by resolution of the Council shall be submitted to the Building Official. If the proposed development conforms in all respects to this chapter, a building permit shall be issued by the Building Official within a period of 60 days.

3) If the proposed development involves a zoning amendment, variance, or conditional use permit, the application, together with a building permit, shall be submitted either to the Planning Commission or Board of Zoning Appeals for review and appropriate action according to the procedures set forth in SEC. 152.198 through SEC. 152.200 of this chapter.

152.201.D Violations

Each day that a violation of this chapter is permitted to exist shall constitute a separate offense. Violation of any condition of a conditional use permit may result in immediate termination of the permit by the Council, following public hearing. Notice and public hearing of violations and termination proceedings on all non-conforming, any conditional, incompatible, accessory or special uses or home occupation uses, notice of hearing shall be given by the Council to the interested party or parties by certified mail or in lieu thereof by one legal published notice at least ten days before the hearing date, which notice shall be given by the Council within a reasonable time.

152.999 Penalty

Every person violates a section, division, or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both. The costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Appendix: Table of Lot Area, Width and Setbacks for Land Use Districts

Symbol	*Use District*	*Lot Area*	*Lot Width*	*Front Yard Set-Back from Road Right-of-Way*	*Side Yard*	*Rear Yard*	*Height*
FR	Farm Residence	1 acre	200 feet	70 ft. - state highway 50 ft. - county road 25 ft. - city street	10 feet	50 feet	2 $^1/_2$ stories, 35 ft. except for silos, grain, elev., etc.
R-1	Single-Family Residential	7,500 sq. ft.	70 feet	Same as FR District	5 feet	18 feet	2 $^1/_2$ stories, 35 ft.
R-2	One and Two Family Residential	6,000 sq. ft.	50 feet	Same as FR District	5 feet	18 feet	2 $^1/_2$ stories, 35 ft.
R-3	Multi-Family Residential	7,500 sq. ft.	75 feet	Same as FR District	15 feet	35 feet	4 stories, 40 ft.
C-1	Central Business District	No Minimum	No Minimum	10 feet	50 ft. from Res. Dist.	15 feet	4 stories, 45 ft.
C-2	Highway Commercial	No Minimum	No Minimum	130 ft. - state highway 110 ft. - county road 90 ft. - local street	a. 20 ft. b. 50 ft. from Res. Dist.	a. 35 ft. b. 50 ft. from Res. Dist.	2 $^1/_2$ stories, 35 ft.
C-3	Shopping Center			70 ft. - state highway 50 ft. - county road 30 ft. - city street	a. 20 ft. b. 50 ft. from Res. Dist.	a. 35 ft. b. 50 ft. from Res. Dist.	2 $^1/_2$ stories, 35 ft.
I-1	Heavy Industrial	40,000 sq. ft.	150 feet	Same as I-2 District	Same as I-2 District	Same as I-2 Dist.	3 stories, 40 ft.
I-2	Light Industrial	20,000 sq. ft.	100 feet	70 ft. - state highway 50 ft. - county road 25 ft. - local street	a. 30 ft. b. 75 ft. from Res. Dist.	a. 50 ft. b. 75 ft. from Res. Dist.	3 stories, 40 ft.
IN	Institutional	None		50 ft.			2 $^1/_2$ stories
FP	Floodplain Overlay District	SAME AS UNDERLYING DISTRICT					

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