CITY OF GILBERT, MINNESOTA

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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CITY CHARTER

The following named Commissioners, being duly appointed, qualified and acting members of the Charter Commission in and for the City of Gilbert, have prepared and framed this Charter.

RENO ANGELONI	ROBERT J. NANTI
JAMES CONNOR	HERMAN PELZER
PATRICK HOGAN, JR.	RUSSELL E. PLAISTED
JAMES L. KRAUSE	ELI PONTINEN
FRANK MALOVRH	HELEN SKALKO
LAVERN MAROLT	BEN C. VERBICK
RONALD L. MUSTER	THOMAS VUKELICH

At the general election held in the City of Gilbert for the Adoption of the Charter on November 8, 1977, the Charter was ratified and adopted by the voters by the following vote:

YES	677
NO	362
SPOILED	4
BLANK	23

CITY CHARTER OF GILBERT, ST. LOUIS COUNTY, MINNESOTA

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Editor's note:

This City Charter was adopted on 11-8-1977 and was effective 1-1-1978.

Chapter 1: Name, Boundaries, Powers, and General Provisions

Sec 1.01. Name of City.

The City of Gilbert, Minnesota, shall continue to be a municipal corporation under that name and with the boundaries described below.

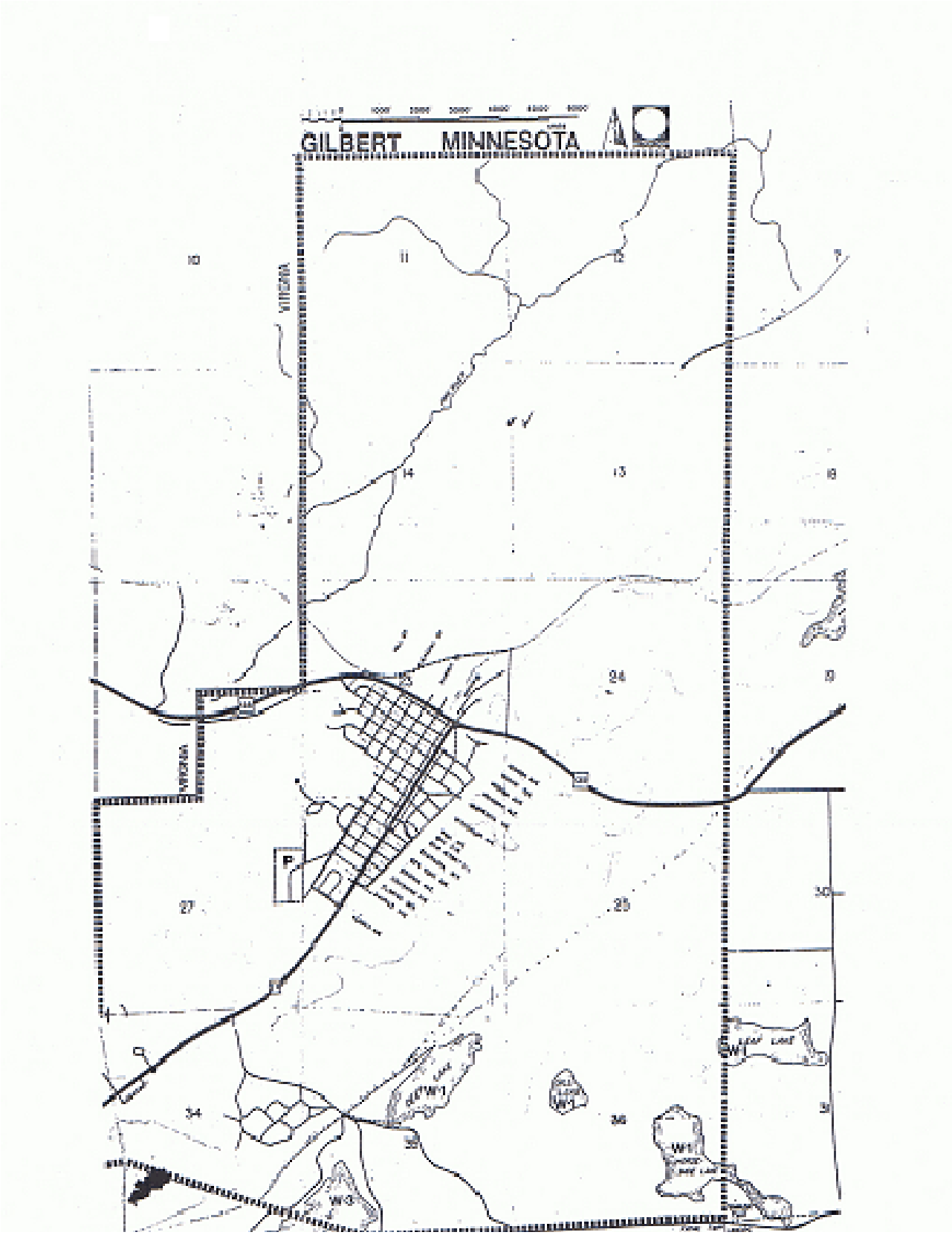
Sec. 1.02. Boundaries of City.

The City of Gilbert embraces the following described territory in the County of St. Louis in the State of Minnesota, together with such territory as may hereafter be attached thereto and less such territory as may be detached therefrom, as follows:

All of Sections Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27;, Thirty-four (34), Thirty-five (35), Thirty-six (36), Southeast quarter (SE 1/4), of Section Twenty-two (22), East one Half (E 1/2), of the East one Half (E 1/2), of Section Thirty-three (33); all in Township Fifty-eight (58), North of Range Seventeen (17), West, of Fourth Principal Meridian.

Sec. 1.03. Powers of the City.

The city shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitutions of this state and of the United States. It is the intention of this charter to confer upon the city every power which it would have if it were specifically mentioned. The charter shall be construed liberally in favor of the city and the specific mention of particular municipal powers in other sections of this charter does not limit the powers of the city to those thus mentioned. Unless granted to some other officer or body, all powers are vested in the City Council.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Chapter 2: Form of Government

Sec. 2.01. Form of Government.

The form of government established by this charter is the "Council Mayor Plan".

Except as otherwise provided by law or this charter, all powers of the city are vested in the Council. It shall have complete control of the city administration.

Sec. 2.02. Boards and Commissions.

There shall be no separate administrative board or commission except for the administration of a function jointly with another political subdivision. The Council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by stature. The Council may, however, establish boards or commissions to advise the Council with respect to any municipal function or activity, to investigate any subject of interest to the city, or to perform quasi-judicial functions. All commission and board members shall serve without pay. Appointments shall be made in January. Terms commence February 1st following. No individual shall serve on more than one commission or board simultaneously.

Sec. 2.03. Council Composition and Election.

The Council shall be composed of a Mayor and four Concillors who shall be qualified electors and all of whom shall have the right to vote at Council meetings and who shall be elected at large. Each Councillor shall serve for a term of three years and until his successor is elected and qualifies. Except that at the first election held after the adoption of the charter, one Councillor shall be elected to serve in the position vacated when the Clerk is no longer a voting member of the Council. The Mayor shall serve for a term of two years and until his successor is elected and qualifies.

Sec. 2.04. Incompatable Offices.

No member of the Council shall hold any other paid municipal office or employment under the city; and until one year after the expiration of his term as Mayor or Councillor no former member shall be appointed to any paid appointive office under the city.

Sec. 2.05 Vacancies.

A vacancy in Mayor, Council, and other elective and appointed offices shall be deemed to exist in case of the failure of any person elected thereto to qualify within ten days after the written notification of his election by the City Clerk or by reason of death, written resignation filed with the City Clerk, removal from office, removal from the city, continuous absence from the city for more than three months, or for conviction of the felony of any such person, whether before or after his qualification; or is adjudged incompetent by a court of competent jurisdiction; or by reason of the failure of any such person without good cause to perform any of the duties of membership in the council for a period of three months. In each such case the Council shall by resolution declare such vacancy to exist within 30 days and shall forthwith appoint an eligible persons to fill the vacancy until the next regular election. If the Council because of equal division of votes is unable to fill the vacancy, then the Mayor shall fill the vacancy by appointment for the time specified above, but if the vacancy is that of Mayor and the Council members fail for thirty days after the vacancy to appoint a Mayor for the time specified above, a special election to elect a Mayor for the time specified above shall be held immediately.

Sec. 2.06. The Mayor.

The Mayor shall be the presiding officer of the Council, except that a president protempore shall be chosen who shall serve as president in the Mayor's absence, and as acting Mayor in case of the Mayor's disability or absence from the city. The Mayor shall be the chief executive officer of the city, and shall exercise all powers and perform all duties conferred upon him by this charter, the ordinances, resolution and motion of the Council of the city and laws of the state. He shall be recognized as the official head of the city for all ceremonial purpose, by the courts for the purpose of serving civil processes and by the governor for the purpose of martial law.* In time of public danger or emergency he may, with consent of the Council, take command of the police, maintain order and enforce the law. He shall have equal vote with other members of the Council on any matter coming before that body, and he shall have no veto power. The Mayor shall be an ex officio member of all boards and commissions.

Sec. 2.07. Salaries.

The Mayor and Councillors shall receive such salaries or wages as is fixed by the Council in accordance with law. All salary increases shall not exceed 10% of the existing salary and will not become effective for one year following the adoption of the resolution. The City Clerk and all subordinate officers and employees of the city shall receive such salaries or wages as may be fixed by the Council.

Sec. 2.08. Investigation of City Affairs.

The City Council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require if the production of evidence. The Council shall provide for an audit of the city's accounts at least once a year by the state department in charge of such work or by a certified public accountant experienced in municipal accounting. At any time the Council may provide for an examination or audit of the accounts of any city officer or agency and it may provide for any survey or research study of any subject of municipal concern.

* Also see Sec. 12.13.

Chapter 3: Nominations and Elections

Sec. 3.01. The Regular Municipal Election.

A regular municipal election shall be held on the first Tuesday after the first Monday in November of each year at such place or places as the City Council may designate. The City Clerk shall give at least two weeks published notice of the time and place of holding such election and of the officers to be elected, in accordance with the state statutes.

Sec. 3.02. Primary Elections.

On Tuesday 4 weeks in advance of the regular municipal election there shall be a primary election for the selection of two nominees for each elective office at the regular municipal election unless only two or less nominees file for each elective office.

Sec. 3.03. Special Elections.

The Council may by resolution order a special election and provide all means for holding it. The Clerk shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

Sec. 3.04. Filing for Office.

No earlier than 6 weeks or later than 4 weeks before the municipal election, any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of $2.00 to the City Clerk, have his named placed on the municipal election ballot, or, if there is no primary election, on the municipal election ballot.

Sec. 3.05. Procedure at Elections.

Subject to this charter and applicable state laws, the Council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

Chapter 4: Initiative and Referendum

Sec. 4.01. General Voter Authority.

The voters of the city shall have the right, in accordance with this chapter, to propose ordinances and to require ordinances to be submitted to a vote by processes known respectively as the initiative and referendum.

Sec. 4.02. Petitions.

An initiative or referendum shall be initiated by a petition signed by registered voters of the city equal in number to 25 percent of those who voted for Mayor in the last preceding city election. Each petition shall be sponsored by a committee of five voters whose names and addresses shall appear on the petition. A petition may consist of one or more papers, but each paper circulated separately shall contain at its head or attached to it the statement required by Section 4.05 or 4.06, as the case may be. Each signer shall sign his name and give his street address. Each separate page of the petition shall have appended to it a certificate, verified by oath, that each signature is the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the city. Any person whose name appears on a petition may withdraw his name by a statement in writing filed with the City Clerk before the Clerk advises the Council of the sufficiency of the petition. Once a petition has resulted in an election there cannot be a re-petition of this same matter for at least a 2-year period.

Sec. 4.03. Determination of Sufficiency.

Immediately upon receipt of the petition, the City Clerk shall examine the petition as to its sufficiency and report to the council within 20 days. Upon receiving the report, the council shall determine by resolution the sufficiency of the petition.

Sec. 4.04 Disposition of Insufficient Petition.

If the Council determines that the petition is insufficient or irregular, the City Clerk shall deliver a copy of the petition, together with a written statement at of its defects, to the sponsoring committee. The committee shall have 30 days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the Council finds that the petition is still insufficient or irregular, the City Clerk shall file the petition in his office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose nor shall it prevent the Council from referring the ordinance to the voters at the next regular or special election at its option.

Sec. 4.05. Initiative.

Any ordinance, except an ordinance relating to the budget or capital program, the appropriation of money, the levy of taxes, or the salaries of city officers or employees, may be proposed by a petition which shall state at the head of each page or attached thereto the exact text of the proposed ordinance. If the Council passes the proposed ordinance with amendments and a majority of the sponsoring committee do not disapprove the amended form by a statement tiled with the City Clerk within 10 days of its passage by the Council, the ordinance need not be submitted to the voters. If the Council fails to enact the ordinance in an acceptable form within 60 days after the final determination of sufficiency of the petition, the ordinance shall be placed on the ballot at the next election occurring in the city. If no election is to occur within 120 days after the filing of the petition, the Council shall call a special election on the ordinance to be held within such period. If a majority of those voting on the ordinance vote in its favor, it shall become effective 30 days after adoption unless the ordinance specifies a later effective date.

Sec. 4.06. Referendum.

Any ordinance subject to the initiative may be subjected to referendum by a petition which shall state, at the head of each page or on an attached paper, a description of the ordinance. Any ordinance upon which a petition is filed, other than an emergency ordinance, shall be suspended in its operation as soon as the petition is found sufficient. If the ordinance is not thereafter entirely repealed, it shall be placed on the ballot at the next election or at a special election called for that purpose, as the Council determines. If a majority of the voters voting thereon favors the ordinance, it shall go into effect

immediately or on the date specified in the ordinance; if a majority of the electors voting thereon votes against the ordinance, it shall be considered repealed upon certification of the election results. If a petition is filed against an emergency ordinance, the ordinance shall remain in effect but shall be repealed if a majority of the voters voting on the ordinance vote against it.

Chapter 5: Council Procedures

Sec. 5.01. Council Meetings.

The City Council shall meet regularly at least once each month at such times and places as the Council may designate by rule. The Mayor or any 3 members of the Council may call special meetings of the Council upon at least twelve hours notice to each member. To the extent provided by law, all meetings of the Council and its committees shall be public and any citizen shall have access to the minutes and records of the Council at all reasonable times.

Sec. 5.02. Secretary of the Council.

The City Clerk shall act as the secretary of the Council. He shall keep a journal of Council proceedings and perform such other duties as this charter or the Council may require.

Sec. 5.03. Rules of Procedure and Quorum.

The Council shall determine its own rules and order of business. A majority of all members shall constitute a quorum, but a smaller number may adjourn from time to time. The Council may by rule provide a means by which a minority may compel the attendance of absent members. All votes of the Council shall be spread upon the minutes and shall be recorded and preserved in the records of the proceedings of the Council as kept by the City Clerk.

Sec. 5.04. Ordinances, Resolutions, and Motions.

Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of the Council members on any action taken shall be recorded in accordance with statute.

Except as otherwise provided in this charter, an affirmative vote of a majority of all of the members of the Council shall be required for the adoption of all ordinances, resolutions, and motions.

Sec. 5.05. Procedures on Ordinances.

Every proposed ordinance, excepting emergency ordinances, shall be presented in writing and no ordinance shall be introduced except at a regular meeting, and provided further, that a copy of said ordinance shall have been made available to each member of the Council at the previous regular meeting. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The style of all ordinances shall be: "The City Council of the City of Gilbert, do ordain as follows. . .". No ordinance except an emergency ordinance shall be adopted at the meeting at which it is introduced. Every proposed ordinance, excepting emergency ordinances, shall have two readings. The first reading of the proposed ordinance shall be held at the first regular meeting following the meeting in which the exact copies of the ordinance are made available to the Council members. Its second reading shall be held at the next regular meeting and such ordinance shall not be changed after the meeting at which it receives its first reading. A vote upon the ordinance shall then be taken and said ordinance declared either adopted or not. The inclusion in the Council proceedings of any proposed ordinance shall not be deemed as necessary prior to its first reading.

Sec. 5.06 Emergency Ordinances.

An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare in which the emergency is defined and declared in a preamble and the ordinance is adopted by a vote of at least 4 members of the Council.

Sec. 5.07. Procedure on Resolutions.

Every resolution shall be presented in writing and read in full before adoption. All resolutions shall be passed by a majority affirmative vote of the members.

Sec. 5.08. Signing, and Publication of Ordinances, Resolutions and Council Proceedings.

Every ordinance, resolution and record of the proceedings of the Council, which are passed by the Council shall be signed by the Mayor, and attested to by the City Clerk, and filed and preserved by him. Every ordinance shall be published at least once in the official newspaper. Publication of ordinances, resolutions and records of the proceedings of the Council shall be in accordance with the state statute and sufficient to satisfy the provisions of the charter. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full. The annual financial statement shall be published and made available at the City Clerks office and shall be displayed at the public library.

Sec. 5.09. When Ordinances and Resolutions take effect.

Every resolution and emergency ordinance shall take effect immediately upon its passage or at such later date as it specifies. Every other ordinance shall take effect 30 days after its publication or at such later date as it specifies.

Sec. 5.10. Amendment and Repeal of Ordinances and Resolutions.

Every ordinance or resolution repealing all or part of a previous ordinance or resolution shall give the number, if any, and the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Sec. 5.11. Revision, Codification and Preservation of Ordinances.

The City may revise, re-arrange and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code shall be published in permanent book form. A continuously revised loose-leaf form and copies shall be made available by the Council at the Office of the City Clerk for general distribution to the public free or for a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notive that copies of the codification are available at the Office of the City Clerk is published in the official newspaper for two successive weeks.

Chapter 6: Administration of City Affairs

Sec. 6.01. Administrative Organization.

At its first regular meeting in January in each year, the council may appoint a City Attorney and City Assessor. 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.

Editor's note:

Election results for the 12-17-2002 special election on the city charter were ratified on 12-18-2002.

Sec. 6.02. City Clerk-Treasurer.

The Clerk-Treasurer shall be chosen solely on the basis of training, experience and administrative qualifications. The individual shall be appointed and after one year of such appointment can only be removed by the action of the Council after a hearing and on specified ground, pursuant to PELRA procedures, for just cause, which may include but are not limited to: conviction of a felony, refusal to carry out the policies of the Council, or failure or refusal to promptly perform his specified duties. There shall be an annual written evaluation on the Clerk-Treasurer's job performance. The Clerk-Treasurer shall be required to submit to a 30-day written notice of resignation to the Council. The Council may designate some properly qualified person to perform the duties of Clerk-Treasurer during his absences or disability or while the office is vacant.

Editor's note:

Election results for the 12-17-2002 special election on the city charter were ratified on 12-18-2002.

Sec. 6.03. Powers and Duties of the City Clerk.

Subd. 1. The City Clerk shall be responsible to the Council for the administration of the city's affairs. He shall have the powers and duties set forth in the following subdivisions:

Subd. 2. He shall see that this charter and the laws, ordinances, and resolutions of the city are enforced.

Subd. 3. He shall keep the corporate seal of the city, and all papers and records thereof.

Subd. 4. He shall attend all meetings of the Council and keep a record of all proceedings thereof, and may take part in discussion but not vote.

Subd. 5. He shall keep regular books of accounts, showing in detail at all times the business and financial affairs and the accounts of the city. He shall present to the City Council each month at one regular meeting thereof a report setting forth in detail and classified as to funds, all monies received and paid out.

Subd. 6. He shall keep the council fully advised on the financial condition and needs of the city, and he shall prepare and recommend to the Council the annual budget and capital program, as finally adopted under policies formulated by the Mayor and Council.

Subd. 7. He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the city not later than the last day of February or as provided by state statute.

Subd. 8. He shall have the power to administer oaths and affirmations and to take acknowledgements.

Subd. 9. He shall perform such other duties as are prescribed by charter, the Council or state statute.

Sec. 6.04. Subordinate Officers.

There shall be such other officers subordinate to the City Clerk as the Council may establish by ordinance. The Clerk shall be designated to act as secretary of the Council and also as treasurer. The Council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices as it may see fit.

Sec. 6.05. City Attorney.

The City Attorney shall be the chief legal officer of the City Attorney, and shall have been, prior to his appointment, admitted to practice in all the courts in Minnesota. It shall be his duty, when necessary, to appear in and conduct all civil suits and legal proceedings in which the city or any department thereof shall be directly or indirectly interested; when necessary, to take charge of and conduct prosecutions for the violations of all ordinances, resolutions or regulations of the Council or any commission or officer of the city; upon request of any officer of the city, including members of commissions of the city, to give written legal opinions or advice on any matters respecting their official duties or municipal affairs; to perform such duties consultant with his office, as may be required of him by the Council; and such further duties as may be imposed by law on city attorneys. No special or assistant attorney shall be employed by any department of the city without the request of the City Attorney and the prior approval of the City Council. In case of sickness or inability of the City Attorney to act, he may, at his own expense, appoint, by and with the consent of the Council, another attorney to act in his stead for the duration of his absence. It shall be his duty to attend at least one meeting per month of the City Council. The City Attorney may be removed at any time by an affirmative vote of the majority of the City Council. He shall submit his resignation in writing to the City Council.

Sec. 6.06. City Assessor.

The City Assessor shall make a fair and equitable valuation of all taxable property in the city, according to the tax laws of the State of Minnesota. He need not be a resident of the city at the time of his appointment but shall become a resident within 90 days after his appointment and shall so remain throughout his tenure of office. He shall be a certified assessor in the State of Minnesota as provided by state statute. The City Assessor shall establish and maintain an office in the Gilbert City Hall from which he shall perform his duties as prescribed by law. The City Assessor may be removed at any time by an affirmative vote of the majority of the City Council. He shall submit his resignation in writing to the City Council.

Sec. 6.07. Purchases and Contracts.

The City Clerk shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the City Clerk when the amount involved does not exceed $500. All other purchases shall be made and all other contracts let by the Council. Contracts shall be made in compliance with the uniform contracting law, and whenever competitive bids are required, the contract shall be let to the lowest responsible bidder, meeting specifications. The Council may, however, reject any and all bids which it feels are not in the best interest of the city. All contracts, bonds, instruments of any kind to which the city is a party shall be signed by the Mayor and the City Clerk 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. Only the City Council shall have power to order or authorize any compromise in the performance of any work to be done or delivery to be made under contract.

Chapter 7: Taxation and Finance

Sec. 7.01. Council to Control Finances.

The Council shall have full authority over the financial affairs of the City. It shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public monies.

Sec. 7.02. Fiscal Year.

The fiscal year of the City shall be the calendar year.

Sec. 7.03. Power of Taxation.

The Council shall have full authority to levy taxes on the real and personal property within the city. This authority includes the power by ordinance to assess, levy and collect taxes as limited or prohibited by the state constitution, by this charter or by laws imposing restrictions upon the city irrespective of charter provisions.

Sec. 7.04. Budget System.

Expenditures of the city shall be planned and made in accordance with a budgeting procedure. The budget shall be prepared by a budget board, composed of the Mayor, Clerk, and two or more Councillors as the Council may designate. Not later than August 1, of each year, administrative officers,

commissions, boards and department heads shall submit to the Budget Board detailed estimates and supporting explanations of their financial needs for the ensuing fiscal year. Also not later than August 1, the Clerk shall provide the budget board with a detailed estimate of all probable receipts and a statement of obligations already incurred for the ensuing fiscal year. The Budget Board shall submit to the Council on or before its first regular meeting in September, a budget of expenditures for the ensuing fiscal year, recommending specific appropriations by the Council to the funds listed in the budget. The Budget Board shall also submit to the Council a classified statement of receipts and expenditures of the city for the past fiscal year, an estimate of receipts and expenditures of the city for the current fiscal year, and an estimate of the receipts of the city for the ensuing fiscal year.

The Budget Board shall also submit to the Council income and expenditures of the Water, Light and Building Department, and shall show net surplus or deficit and the proposed method of disposition.

Sec. 7.05. Capital Improvement Program.

The Council may prepare a recommended five year capital improvement program in connection with the preparation of the budget. The program shall include appropriate supporting information relative to necessity of proposed improvements, cost estimates, method of financing and time schedules for each improvement. This information shall be revised and updated annually.

Sec. 7.06. Adoption of the Budget.

The budget shall be the principal item of business at the first regular meeting of the Council in September and at subsequent meetings until a budget is adopted for the ensuing year. The budget meetings will be in accordance with state open meeting laws. The Council may revise the proposed budget but no amendment to the budget shall increase the authorized expenditures to an amount greater than the estimated income. The Council shall adopt the budget not later than the first week of October, by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purpose of expenditures as the Council deems necessary for purposes of budget control. The Council shall also adopt a resolution levying the amount of taxes provided in the budget and the Clerk shall certify the tax resolution to the County Auditor in accordance with the law not later than October 10. No exemptions from taxation shall be allowed except such as are expressly required or permitted to be made by statute. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be appropriated for the several purposes named in the budget resolution and no other.

Sec. 7.07. Enforcement of Budget.

The Mayor and the City Council shall observe and enforce strictly the provisions of the budget. No officers or employees of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. No officer or employee of the city shall make any

purchase without a purchase order obtained from the Clerk. Any obligation incurred by any officer or employee of the city for any purpose in exess of the amount authorized shall be a personal obligation upon the person incurring the obligation. At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Clerk shall submit to the Council data showing the relationship between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations except amounts required for debt and interest charges or by contract, to such a degree as may be necessary to keep expenditures within the revenues.

No check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, or timesheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness. Any board or commission that exceeds its budget shall be subject to removal upon notice or as otherwise provided.

Sec. 7.08. Alterations in the Budget.

Subsequent to adoption of the budget, the Council shall have no power to increase the amounts in the budget resolution, except to the extent that actual receipts or transfers exceed the estimate. At any time the Council may, by resolution approved by a majority of its members, reduce the sums appropriated for any purpose by the budget resolution, or by a unanimous vote of all members of the Council, authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Sec. 7.09 Funds.

Subd. 1. There shall be maintained in the city treasury the funds as provided in the following subdivisions, and such other funds as may be required, by statute, ordinance, or resolution. The Council may, by ordinance or resolution, make inter-fund loans, as it may deem necessary and appropriate.

Subd. 2. **General Fund.** From the receipts of taxes collected annually, and sums budgeted by the Council for the payment of such expenses of the city as the Council may deem proper.

Subd. 3. **Library Fund.** From the receipts of taxes collected annually, and sums budgeted by the Council for the maintenance of the public library.

Subd. 5. **Firemen's Relief Association Fund.** From the receipts of taxes collected annually, and sums as may be specifically appropriated to the Firemen's relief association In accordance with law.

Subd. 5. **Bond Fund.** From receipts of taxes and revenue collected annually for bonded indebtedness and interest thereon, there shall be paid in the bond and interest fund all receipts from such taxes or other sources for the payment of principal and interest of all bonded indebtedness.

Subd. 6. **Police Pension Fund.** From the receipts of taxes collected annually, and sums as may be specifically appropriated to the Police Pension Fund in accordance with law.

Subd. 7. **Public Utility and Building Fund.** From receipts derived from the sale of utility services, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of this fund the cost of the purchase, construction, operation, maintenance, and repair of such utility, including the principal and interest on obligations which nave been or shall be issued on its account. Separate accounts within the public utility shall be kept for all utilities which are operated separately.

Sec. 7.10. Disbursements.

No money demand against the city shall be paid until audited and allowed by the Council. Each claim allowed shall bear the number of the order or check drawn for its payment, and the Clerk shall take and file a receipt for each order or check issued. Every order drawn for the payment of money shall be signed by the Mayor, Clerk, and countersigned, if required by the Council.

Sec. 7.11. City Indebtedness.

Except as provided in Section 7.12, no obligations shall be issued to pay current expenses. No obligation shall be issued and sold without the approval of the majority of the voters voting on the question at a general or special election.

Sec. 7.12. Tax Anticipation Certificates.

At any time after January 1, the Council may issue certificates of indebtedness in anticipation of state and federal aids and of the collection of taxes levied the previous year for any fund not yet collected. No certificates shall be issued and outstanding for any separate fund exceeding fifty percent of the amount allocated to that fund by the City Council.

It shall be the duty of the Council to see that such issues are negotiated at the lowest possible cost to the city, and at the best possible terms. Certificates shall become due not later than April 1, of the year following their issuance. The proceeds of the tax levied for the fund against which tax anticipation certificates are issued and the full faith and credit of the city shall be irrevocably pledged for the redemption of the certificates. Every member of the City Council or any board or commission of the city present at a meeting of the board, commission, or Council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this charter shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting.

Chapter 8: Public Improvements and Special Assessments

Sec. 8.01 The City Plan.

The City Council may prepare and adopt a complete plan for the future physical development of the city. Such plan may be altered from time to time. It shall include provisions for zoning, for the platting and development of new areas, for the planning and location of public buildings, parks, playgrounds, transportation lines, bridges, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters which may seem essential to such a plan.

Sec. 8.02. Enforcement of the City Plan.

The Council shall have all necessary power to enforce complete adherence by all persons to the plan adopted as provided above, and to adopt and enforce a comprehensive zoning ordinance. The Council shall have power to pass ordinances to regulate the use of private property, the height of buildings, and the proportion of the areas of any lot which may be built upon and to establish building lines. Such power shall be exercised to promote public health, safety, morals, welfare and convenience.

Sec. 8.03. Power to make improvements and levy assessments.

The city may make any type of public improvement not forbidden by law and levy special assessments to pay all or part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected, therewith, with interest. No assessment shall exceed the benefits to the property.

Sec. 8.04. Assessments for services.

The Council may provide by ordinance that the cost of city services to streets, sidewalks, or other public or private property may be assessed against property benefited and collected in the same manner as special assessments.

Sec. 8.05. Local improvement procedure.

When the city undertakes any local improvement to which the state local improvement code applies, it shall comply with the provisions of that law. The Council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

Sec. 8.06. Public Works, How Performed.

Public works, including all local improvements, may be constructed, extended, repaired and maintained either directly by day labor or by contract. The city shall require contractors to give bonds for the protection of the city and all persons furnishing labor and materials, pursuant to the statutes of the State of Minnesota.

Chapter 9: Eminent Domain

Sec. 9.01. Acquisition of property.

The city may acquire, by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the city for any public purpose. In acquiring property by exercising the power of eminent domain, the city shall proceed according to Minnesota Statutes, Chapter 117 or other applicable law.

Chapter 10: Franchises

Sec. 10.01. Franchises required.

Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the clerk to guarantee publication before the ordinance is passed.

Sec. 10.02. Public hearing.

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Sec. 10.03. Granting of Franchises.

No exclusive or perpetual franchise shall ever be granted. No franchise ordinance shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received a majority vote of the electors. No election for such purpose shall be ordered by the Council, unless the expense of holding such election, shall have first been paid to the city by the grantee.

Sec. 10.04. Power of regulation reserved.

Subject to any applicable law the Council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's properly by purchase or eminent domain.

Sec. 10.05. Conditions of Franchises.

Every franchise shall contain the following provisions:

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

(2) That the grantee, or its assignees, if any, shall post a bond in such amount and such form as may be determined by the City Council, conditioned to repair promptly all damages to public streets, alleys and ways and public property occasioned by the acts or ommissions of any such grantee or assignees.

Sec. 10.06. Renewals or extensions.

Every renewal or modification of a franchise, including an existing franchise, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

Chapter 11: Public Ownership and Operation of Utilities

Sec 11.01. Acquisition and operation of utilities.

The city may own and operate any water, gas, light, power, heat, telephone, transportation or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or other governmental agencies. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed. The city shall not acquire or construct any public utility unless the proposition to acquire or to construct it has been incorporated in an ordinance and adopted by the Council. Such ordinance shall not be an emergency ordinance.

Sec. 11.02. Regulations and rates.

The Council may by ordinance fix rates, fares, and prices, for any municipal utility, prescribe the time and manner of payment for any such service, make such other regulations as may be necessary, and prescribe penalties for violation of such regulations.

Sec. 11.03. Lease of plant.

The Council may by ordinance contract with any person, firm, or corporation for the operation of any municipal utility for a term not to exceed ten years. Such ordinance shall not be an emergency ordinance.

Sec. 11.04. Sale of public utility.

No public utility owned by the city shall be sold or otherwise disposed by the city unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the voters voting thereon at a general or special election. Any sale, lease or abandonment of a water works or light plant shall be subject, in addition, to the requirements of state law.

Chapter 12: Miscellaneous and Transitional Provisions

Sec. 12.01 Official Publication.

The Council shall annually at its first meeting of the year designate a local newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the Council may deem it in the public interest to have published in this manner. The annual financial statement shall be published and made available not later than the last day of February.

Sec. 12.02. Oath of Office.

Every elected or appointed officer of the city shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear to support the constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as an elected or appointed officer of the City of Gilbert to the best of my judgement and ability."

Sec. 12.03. Official Bonds.

The City Clerk and such other officers or employees of the city as may be specified by ordinance shall each, before entering upon the duties of his respective office or employment, give a corporate surety bond to the city as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds shall be in such form and amount as the Council determines and may be either individual or blanket bonds at the discretion of the Council. They shall be approved by the City Council and filed with the City Clerk. The provisions of state laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by tire city.

Sec. 12.04. City Property Not Lost by Adverse Possession.

No right, title, estate or easement of the city in any property shall be lost by adverse possession or occupancy, and no statutes of limitations shall operate against the city in favor of any person occupying any public property or highway, whether such highway shall have been improved or not.

Sec. 12.05. Official Interest in Contracts of City Business.

No officer or employee of the city shall solicit or receive any pay, gift, commission, money or thing of value, or derive any benefit, profit, or advantage directly from or by reason of any improvement or repair required by the city, or contract to which the city shall be a party, except his lawful compensation or salary as such officer or employee. Any violation of the provisions of this section shall disqualify the offender from continuing in office.

Sec. 12.06. Sales and Purchase of Real Property.

No real property of the city shall be purchased sold or disposed of except upon payment or receipt thereof of an amount equal to the fair and reasonable market value of said real property as found by the City Council and declared in the resolution authorizing any such sale. Further the said acquisition or deposition shall be pursuant to a 4/5 affirmative vote of the Council. Designated park areas are exempt from sale unless determined by referendum.

The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction or improvement of this or other property used for the same public purpose, but if there be no such outstanding indebtedness the Council may by a resolution adopted by an affirmative vote of 4/5 members of the Council designate some other public use for such proceeds.

Editor's note:

Election results for the 12-17-2002 special election on the city charter were ratified on 12-18-2002.

Sec. 12.07. Vacation of Streets.

The Council may by ordinance approved by 4/5 of its members vacate any streets, avenues, alleys or other public way and easements thereof within the city.

Such vacation may be made only after published notice and an opportunity for affected property owners and public to be heard, and upon such further terms and by such procedure as the Council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Sec. 12.08. Succession of Rights and Liabilities.

When this charter takes effect the City of Gilbert shall be vested with all the rights and immunities formerly vested in the city, and shall be subject to all liabilities existing against the city at that time.

All ordinances, resolutions and regulations in force at the time of the adoption of this charter and not in conflict with its provisions shall continue in force until duly amended or repealed; any tax levy, assessment, improvement, condemnation or other municipal action in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun.

Sec. 12.09. Existing Ordinances, Regulations, Boards & Commissions Continued.

All ordinances, regulations, boards and commissions of the municipality in force and existing when this charter takes effect, and not inconsistent with the provisions hereof, are hereby continued in full force and effect until amended, repealed, vacated or abolished.

Sec. 12.10. Ordinance to Make Charter Effective.

The Council shall by ordinance take such steps as may be necessary to make effective the provisions of this charter.

Sec. 12.11. Present Officers Continued.

The present officers of the city shall continue in their respective offices and functions and shall continue to govern the city under this charter until the expiration of their respective terms. They shall make such financial and other provisions for the fiscal year 1978 as will serve to carry on the government until a government has been set up under this charter, and they shall make provision for the election of the first City Council as provided in Chapter 3 of this charter.

Sec. 12.12. Conflicting Provisions.

If there is any provisions of this charter, which conflict with any other provisions of this charter, the City Council may follow the provision of its choice by an affirmative vote of 4/5 of its members.

Sec. 12.13. Service of Process.

Whenever any suit or action shall be commenced against the city, except garnishment proceedings, all and every process and notice whatsoever affecting the city shall be served upon the Mayor, or, in his absence, upon the City Clerk and it shall be the duty of the officer so served to forthwith inform the City Council and City Attorney thereof. (Also see Sec. 2.06.)

Sec. 12.14. Resignations.

Resignation from Council members and all appointed board and commission members shall be in writing to the City Council.

Sec. 12.15. Advertising.

The City Council may spend not to exceed $500 annually for advertising the city, its resources and advantages.

Sec. 12.16. Regulation and Control of Liquor License Issuance.

The City Council shall not issue additional liquor licenses exceeding the number issued, as of the effective date of this charter unless it does so by referendum, at a special or general election.

Sec. 12.17. Cemetery.

The City Council shall have the power to acquire, establish, own, operate, control, supervise, manage and maintain a cemetery and cemetery grounds and expend money therefor. It may sell lots therein to purchasers.

Sec. 12.18. Transition of Officers.

The provisions of this charter shall take effect on the January first, following its adoption. The three (3) Councillors, the Clerk, the Mayor, and the Treasurer, who held office at the time this charter became law as the charter of the City of Gilbert shall continue in the office so held by them for the balance of the term of office for which they were elected, or until their successors, have been duly elected and qualify by virtue of this charter.

The transition of elective officers of the city from its previous charter to this charter shall be as follows:

The first primary election and the first general election, as provided in Chapter 2, Section 2.03 above shall be held in 1978. At this time two (2) Councillors shall be elected for a term of three (3) years each. The term of Clerk shall expire on January 1, 1979, at which time the appointed Clerk will be designated.

Annual elections subsequent to the above provided shall be held, electing a Mayor for the term of two (2) years in the odd numbered years. Councillors shall be elected one year each, except two (2) every third year.

The term of Treasurer will expire January 1, 1980, at which time the Treasurers dirties will then be assumed by the Clerk, who then becomes the Clerk-Treasurer.

Sec. 12.19. Charter Commission Membership.

The charter commission of the city of Gilbert shall consist of 15 members.

Sec. 12.20. Charter Amendments.

This charter may be amended or revised in any manner provided by law. However, the Council is encouraged to provide for a referendum concerning amendments.

Sec 12.21. Sundays and Holidays.

Whenever the date fixed by this charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Sec. 12.22. Election to Adopt.

This charter shall be submitted to a vote of the qualified electors of the City of Gilbert at the general elect n to be held on Tuesday the eighth (8) day of November, 1977. This election shall be conducted by the officers under the existing charter charged with the conduct and supervision of the election, and shall follow the election procedure and be canvassed in the same manner provided in the existing charter.

Sec. 12.23. Form of Ballot.

The form of ballot for the submission of this charter is prescribed by M.S. 410.10, subd 3.

Instructions to the Voters: Voters desiring to vote in favor of adoption of the proposed new charter for the city of Gilbert shall put an (X) in the square after the word "Yes." Voters desiring to vote against the adopting of the proposed new charter for the city of Gilbert shalt put an (X) in the square after the word "No."

BALLOT

"SHALL THE PROPOSED NEW CHARTER BE ADOPTED?"

YES ☐

NO ☐

Sec. 12.24. Effective Date.

This charter becomes effective January 1, 1978.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

11. CITY STANDARDS

CHAPTER 10: GENERAL PROVISIONS

Section

10.01 Title of code
10.02 Rules of interpretation
10.03 Application to future ordinances
10.04 Captions
10.05 Definitions
10.06 Severability
10.07 Reference to other sections
10.08 Reference to offices
10.09 Errors and omissions
10.10 Official time
10.11 Reasonable time
10.12 Ordinances repealed
10.13 Ordinances unaffected
10.14 Effective date of ordinances
10.15 Repeal or modification of ordinance
10.16 Ordinances which amend or supplement code
10.17 Preservation of penalties, offenses, rights, and liabilities
10.18 Copies of code
10.19 Adoption of statutes and rules by reference
10.20 Enforcement

10.98 Supplemental administrative penalties
10.99 General penalty
Appendix A: Resolution to Adopt a Schedule of Offenses and Voluntary Administrative Penalties
Appendix B: Notice of Code Violation

§ 10.01 TITLE OF CODE.

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

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

§ 10.02 RULES OF INTERPRETATION.

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

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

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

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

CITY. The area within the corporate boundaries of the City of Gilbert, Minnesota, 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.

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

COUNTY. St. Louis County, Minnesota.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

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

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

SHALL. The act referred to is mandatory.

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

STATE. The State of Minnesota.

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

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

YEAR. A calendar year, unless otherwise expressed.

§ 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.

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

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

§ 10.12 ORDINANCES REPEALED.

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

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

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

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

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

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

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

§ 10.18 COPIES OF CODE.

The official copy of this code shall be kept in the office of the City Clerk-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 ENFORCEMENT.

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

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

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

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

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit, at reasonable times, inspections of or entrance to the property by the City Clerk-Treasurer or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the

grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Clerk-Treasurer to object to the termination before it occurs, subject to appeal of the Clerk-Treasurer's decision to the City Council at a regularly scheduled or special meeting.

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

§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. The resolution may be in the form established in Appendix A of this chapter.

(B) These administrative penalty procedures in this section are intended to provide the public and the city with an informal, cost-effective, and expeditious alternative to traditional criminal charges for violations of certain provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

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

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

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

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

§ 10.99 GENERAL PENALTY.

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

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

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

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

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

APPENDIX A: RESOLUTION TO ADOPT A SCHEDULE OF OFFENSES AND VOLUNTARY ADMINISTRATIVE PENALTIES

WHEREAS, the City Council wishes to adopt the provisions of City Code, § 10.98, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

WHEREAS, the provisions of City Code, § 10.98, authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for those offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

The City Council hereby adopts the provisions of City Code, § 10.98, and adopts the following administrative penalties:

Offense	***Code Section***	***Amount of Administrative Penalty***
All offenses for which an administrative penalty may be established under this code, other than those specified below:		$75

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of City Code, § 10.98.

Mayor: _____

Attest: _____
City Clerk-Treasurer

APPENDIX B: NOTICE OF CODE VIOLATION

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

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

Re: Alleged violation of City Code, § _____, relating to (give title of section)

Date: (Date of notice)

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

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

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

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

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

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

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

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

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

Signed: _____
(Name and title of person giving notice)

CHAPTER 11: CITY STANDARDS

Section

11.01 City seal

§ 11.01 CITY SEAL.

All contracts to which the city is a party shall be sealed with the city seal. The seal shall be kept in the custody of the City Clerk-Treasurer and affixed by him or her. The official city seal shall be a circular disc having engraved thereupon "City of Gilbert" and any other words, figures, or emblems as the Council may, by resolution, designate.
(1985 Code, § 2.03)

TITLE III: ADMINISTRATION

Chapter

30. CITY COUNCIL AND OFFICIALS

31. CITY ORGANIZATIONS

32. CITY POLICIES

33. EMERGENCY MANAGEMENT

CHAPTER 30: CITY COUNCIL AND OFFICIALS

Section

30.01 Purpose
30.02 Council procedure at regular meetings
30.03 Right to administrative appeal
30.04 Rules of procedure for appeals and other hearings
30.05 Facsimile signatures
30.06 Accounts, claims, or demands
30.07 City Attorney
30.08 Salaries of Mayor and Councilmembers

§ 30.01 PURPOSE.

This title is enacted so as to set down for enforcement the government and good order of the city by and through the Council.
(1985 Code, § 2.01)

§ 30.02 COUNCIL PROCEDURE AT REGULAR MEETINGS.

(A) The City Clerk-Treasurer shall prepare the following items:

(1) An agenda for the forthcoming meeting;

(2) A report from the City Clerk-Treasurer on administrative activities of the preceding month;

(3) 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 is to be called the "Claim Report" and bear headings for "Claimant," "Purpose," and "Amount"; and

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

(B) The City Clerk-Treasurer shall forthwith cause to be mailed or delivered to each member of the Council copies of all the documents. *Robert's Rules of Order (Newly Revised)* shall govern all Council meetings as to procedural matters not set forth in the City Charter or this code.

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

(1) Call to order;

(2) Determination of quorum;

(3) Approval of minutes. An actual reading may be waived if each member of the Council was furnished with a copy thereof as hereinbefore set forth;

(4) Meeting opened in the order stated in the agenda to persons requesting to appear before the Council. The presiding officer may advise any person appearing as to the amount of time allowed prior to his or her speaking, or later limit that time. A person speaking shall give his or her name and address and then state his or her business;

(5) Reports of staff members;

(6) Reports from boards, commissions, Councilmembers, and the Mayor;

(7) Old business;

(8) New business;

(9) Payment of claims and approval for payment of claims and appropriations; and

(10) Adjournment.

(D) Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered, except:

(1) With the unanimous consent of the members of the Council; or

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

(E) All agenda material is to be approved by the Mayor and City Clerk-Treasurer, and all claims for payment must be filed at or before 12:00 p.m. on the Friday preceding the regular Council meeting at which it is to be considered.
(1985 Code, § 2.02)

§ 30.03 RIGHT TO ADMINISTRATIVE APPEAL.

If any person shall be aggrieved by any administrative decision of the City Clerk-Treasurer 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

therefor upon the Mayor and City Clerk-Treasurer at least five 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 his or her own motion or the motion of the appellant, the City Clerk-Treasurer, or a member of the Council, adjourn the hearing to a more convenient time or place, but that time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.
(1985 Code, § 2.04)

§ 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.
(1985 Code, § 2.05)

§ 30.05 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.
(1985 Code, § 2.06)

§ 30.06 ACCOUNTS, CLAIMS, OR DEMANDS.

(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, for 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 or her 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.

(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.

(C) *Form of declaration.* The declaration provided for in division (A) above 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."

(D) *Form and effect of declaration on check.* The declaration provided for in division (B) above shall be printed on the reverse side of the check, above the space for endorsement thereof 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.

(E) *Signing checks.* All checks shall be signed by the Mayor and the City Clerk-Treasurer.
(1985 Code, § 2.07)

§ 30.07 CITY ATTORNEY.

In addition to the duties of the City Attorney enumerated in the City Charter, he or she shall be "Revisor of Ordinances."
(1985 Code, § 2.70)

§ 30.08 SALARIES OF MAYOR AND COUNCILMEMBERS.

(A) *Salaries.* The City Council shall set the salaries of the Mayor and City Councilmembers from time to time.

(B) *Per diem payments.* The Council of the city, in which the net tax capacity consists in part of iron ore, taconite or semitaconite may pay the members of the Council a per diem in an amount not to exceed $25 per day nor $250 per year for members of the Council who are absent from the municipality in the performance of their duty as municipal officials.
(M.S. § 415.10)

CHAPTER 31: CITY ORGANIZATIONS

Section

Departments

31.01 Generally
31.02 Police Department
31.03 Fire Department
31.04 Public Works Department
31.05 Library Department

Boards and Commissions

31.20 Generally
31.21 Utilities Commission
31.22 Cemetery Advisory Board
31.23 Planning and Zoning Commission
31.24 Library Board

DEPARTMENTS

§ 31.01 GENERALLY.

(A) *Control*. All departments of the city are under the overall control of the Council. Heads of all departments are responsible to the Council and subject to its supervision and direction, except as otherwise provided herein.

(B) *Appointment*. Except as herein provided, all department heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations in effect in the city.

(C) *Compensation*. All wages and salaries shall be fixed and determined by the Council.

(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.

(E) *Budgetary information*. The head of each department shall, prior to July 15 in each year, file with the City Clerk-Treasurer the projected financial needs of his or her department for the ensuing year. The projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and any other information as may be requested by the Council.
(1985 Code, § 2.30)

§ 31.02 POLICE DEPARTMENT.

A Police Department is hereby established. The head of the Department shall be known as the Police Chief, and the number of additional members and employees of the Police Department shall be determined by the Council, which may be changed from time to time. The Mayor shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when, in his or her judgment, an emergency exists for the preservation of life or property. The Police Chief and all members of the Police Department shall have the powers and authority of police officers generally and shall perform any duties as are required of them by the Council or by law. The Police Chief shall have general superintendence of the Police Department and custody of all property used and maintained for the purposes of the Department. It is the duty of the Police Chief, on or before the second business day in each month, to file with the City Clerk-Treasurer a report as to all arrests made by, and other activities of, the Department during the previous month. The Police Chief shall also make and file any other reports as may be required by the Council.
(1985 Code, § 2.31)

§ 31.03 FIRE DEPARTMENT.

A Volunteer Fire Department under the control of the Council is hereby established. The size, composition, and remuneration shall all be established by resolution of the Council, which may be changed from time to time by subsequent resolution. The Council shall also establish written rules and regulations of the Department, a copy of which shall be distributed to each of its members. The members of the Department shall elect their own Chief, Assistant Chief, and other officers subject to confirmation and approval by the Council. The Fire Chief shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of the Department. He or she shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the state and ordinances of the city relative to a Fire Department and to the prevention and extinguishment of fires are duly observed. He or she shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in

preserving the property. In case of the absence or disability of the Fire Chief for any cause, the Assistant Chief shall exercise all the powers, perform all the duties, and be subject to all the responsibilities of the Fire Chief. The Fire Chief shall make and file any reports as may be requested by the Council.
(1985 Code, § 2.32)

§ 31.04 PUBLIC WORKS DEPARTMENT.

A Public Works Department is hereby established. The head of the Department shall be the Director of Public Works. The city water, sewerage systems, streets, parks, and refuse collection shall be under the direct supervision of the Director and he or she shall be responsible for and have custody of all property of the Department. It is also the duty of the Director of Public Works, on or before the date of the first regular Council meeting in each month, to file with the City Clerk-Treasurer a report as to any recommendations as to repairs or improvements he or she deems advisable, together with a report of the activities of the Department during the preceding month. The Director shall also make and file any other reports as may be requested by the Council.
(1985 Code, § 2.33)

§ 31.05 LIBRARY DEPARTMENT.

A Library Department is hereby established. The head of the Department shall be the Librarian. All library activities shall be under the supervision of the Librarian.
(1985 Code, § 2.35)

BOARDS AND COMMISSIONS

§ 31.20 GENERALLY.

All board and commission appointments authorized by ordinance or resolution shall be made by the Mayor, and the appointment shall be confirmed by the Council in January of each year. The term of each appointee shall be established and stated at the time of his or her appointment, and terms of present board and commission members may be reestablished and changed so as to give effect to this section. New appointees shall assume office on February 1, January 31 being the date of expiration of terms; provided, however, that all appointees to boards and commissions shall hold office until their successor is appointed and qualified. No employee of the city shall serve on a board or commission when a direct conflict of interest is present. No person shall serve on two boards or commissions at the same time. 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. The Chairperson 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 nonfeasance in office and his or her position filled as any other vacancy. Each board and commission shall hold its regular meetings at a time established and approved by the Council. Except as otherwise provided, this section shall apply to all boards and commissions. All boards and commissions shall be advisory to the Council.
(1985 Code, § 2.50)

§ 31.21 UTILITIES COMMISSION.

(A) *Establishment and composition.* A Utilities Commission is hereby established.

(1) The Commission shall be composed of five members who shall serve staggered three-year terms, beginning with the following terms:

(a) One Commission member: one-year term;

(b) Two Commission members: two-year terms; and

(c) Two Commission members: two-year terms.

(2) Commission members may serve multiple terms upon approval of the City Council.

(B) *Powers and duties.* The Utilities Commission shall advise the Council in all matters relating to the city water, sewer, and light utilities.
(1985 Code, § 2.53) (Ord. passed 2-10-2009)

§ 31.22 CEMETERY ADVISORY BOARD.

(A) The Cemetery Advisory Board is hereby established and shall consist of four members appointed by City Council action. Each member's term shall be for three years, except that the initial Board to be appointed shall have terms of three years, two years, and one year, respectively.

(B) The Cemetery Advisory Board shall advise the City Council with respect to rules and regulations to govern the operation of the City Cemetery, expansion and configuration of cemetery grounds, maintenance and operations of the cemetery by city employees, and all other matters relating to and affecting the City Cemetery.

(C) The Cemetery Advisory Board shall function in accordance with the standards and procedures applicable to other advisory boards within the city.
(Ord. passed 2-27-2007)

§ 31.23 PLANNING AND ZONING COMMISSION.

(A) *Establishment and composition.* A Planning and Zoning Commission is hereby established. The Commission shall be composed of five members who shall serve staggered three-year terms. The Mayor, City Attorney, City Engineer, and, unless serving by appointment, the Zoning Administrator shall be ex officio members.

(B) *Powers and duties.* The Planning and Zoning Commission shall have all the powers and duties defined or granted in state statutes and this code relating to planning, zoning, and subdivision regulation and shall act in an advisory capacity to the Council in all of those areas.
(1985 Code, § 2.51)

§ 31.24 LIBRARY BOARD.

(A) *Establishment and composition.* A Library Board composed of seven members, all of whom shall be residents of the city and shall serve staggered three-year terms, is hereby established. All appointments for a full term, or to fill a vacancy for an unexpired term, shall be made by the Mayor with the approval of the Council, and a member may be removed in the same manner for misconduct or neglect. No more than one Councilmember shall be a member of the Board. Members shall receive no compensation for their services, but may be reimbursed for actual and necessary travel expenses incurred in the discharge of Board duties and activities.

(B) *Duties.* The duties of the Board are as follows:

(1) To annually elect from its membership a President, Secretary, and any other officers as it deems necessary; adopt rules and regulations for the government of the library and conduct of its business; appoint a qualified Library Director and other staff as necessary; establish compensation of employees and remove them for cause;

(2) To pay into the city treasury all money received for the library, and interest thereon, which shall be credited to the Library Fund and kept separate from the other money of the city, and paid out only upon approval of the Board;

(3) To have exclusive control of library grounds and rooms, and the construction of library buildings, and to lease rooms for library use if it finds it to be necessary or desirable; and

(4) To annually report to the Council receipts and their sources, disbursements and for what purposes, the number of library materials on hand, purchased, and loaned, and other information it deems advisable; and to file that information with the State Department of Education not later than April 1 of each year.

(C) *Title to property*. All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by, the city for a library shall vest in, and be held in the name of, the city, and any conveyance, grant, donation, devise, bequest, or gift made to, or in the name of, the library or Library Board shall be deemed to have been made directly to the city.
(1985 Code, § 2.52)

CHAPTER 32: CITY POLICIES

Section

32.01 City-owned lands within Hopkins Park
32.02 Even-Year Election Plan adopted
32.03 Deferment of special assessments
32.04 Partial prepayment of special assessments
32.05 Franchises

§ 32.01 CITY-OWNED LANDS WITHIN HOPKINS PARK.

It is hereby ordained that the City Council will not sell any city-owned land within the area known as Hopkins Park, as legally described in the attachment to the ordinance codified herein as "Exhibit A," for private, commercial, or residential purposes.
(Ord. passed 6-23-1998)

§ 32.02 EVEN-YEAR ELECTION PLAN ADOPTED.

(A) In order to bring the city into compliance with M.S. § 205.07, as it may be amended from time to time, and to provide an orderly transition to the Even-Year Election Plan provided by law, the city does hereby adopt the Even-Year Election Plan providing for a two-year term for the Mayor and four-year terms for the Councilmembers.

(B) This section shall be in full force and effect from and after its publication according to law.
(Ord. 6-97, passed 6-17-1997)

§ 32.03 DEFERMENT OF SPECIAL ASSESSMENTS.

(A) The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability, and the City Clerk-Treasurer is hereby authorized to record the deferment of special assessments where the following conditions are met.

(1) The applicant must apply for the deferment not later than 90 days after the assessment is adopted by the Council.

(2) The applicant must be 65 years of age, or older, or retired by virtue of permanent and total disability.

(3) The applicant must be the owner of the property.

(4) The applicant must occupy the property as his or her principal place of residence.

(5) The applicant's income from all sources shall not exceed the low income limit as established by the Federal Department of Housing and Urban Development as used in determining the eligibility for "Section 8" housing.

(B) The determent shall be granted for as long a period of time as the hardship exists and the conditions as aforementioned have been met. However, it shall be the duty of the applicant to notify the City Clerk-Treasurer of any change in his or her status that would affect eligibility for deferment.

(C) The entire amount of deferred special assessments shall be due within 60 days after loss of eligibility by the applicant. If the special assessment is not paid within 60 days, the City Clerk-Treasurer shall add thereto interest at 8% per annum from the due date through December 21 of the following year and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay, within 60 days, a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

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

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

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

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

(4) Determination by the Council for any reason that there would be no hardship to require immediate or partial payment.
(1985 Code, § 2.73)

§ 32.04 PARTIAL PREPAYMENT OF SPECIAL ASSESSMENTS.

(A) *Partial prepayment of assessments permitted.* After the adoption of an assessment roll pursuant to M.S. Ch. 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 partial prepayment of the assessment, and reduce the amount certified to the County Auditor accordingly. As provided by law, the partial prepayment may be accepted only during the 30-day period following approval of the assessment roll.

(B) *Scope.* 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.
(1985 Code, § 2.74)

§ 32.05 FRANCHISES.

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

FRANCHISE. Any special privileges granted to any person in, over, upon, or under any of the streets or public places of the city, whether the privilege has heretofore been granted by it or by the state, or shall hereafter be granted by the city or by the state.

(B) *Franchise ordinances.* The Council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in those 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 such 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 those places.

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

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

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

(2) The grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that 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, 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) The Council shall have the right to require reasonable extensions of any public service system from time to time, and to make any rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

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

(5) 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 the sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.

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

(E) *Further provisions of franchises.* The enumeration and specification of particular matters, which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the city to insert in any such franchise or renewal or extension thereof any other and further conditions and restrictions as the Council may deem proper to protect the city's interests, nor shall anything contained in this section limit any right or power possessed by the city over existing franchises. (1985 Code, § 2.75) Penalty, see § 10.99

CHAPTER 33: EMERGENCY MANAGEMENT

Section

33.01 Generally
33.02 Interim emergency succession

§ 33.01 GENERALLY.

(A) *Statute adopted*. The State Emergency Management Act of 1996, M.S. Ch. 12, as it may be amended from time to time, insofar as it relates to cities, is hereby adopted by reference as part of this section, as fully as if set forth explicitly herein.

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

(C) *Emergency preparedness plan*. The Council may, by resolution, adopt, from time to time, amend, or repeal an emergency preparedness plan for the city.
(Ord. 1, passed 5-11-1999)

§ 33.02 INTERIM EMERGENCY SUCCESSION.

(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 ensure 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.

(B) *Succession to local offices*. In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the city, the Mayor, City Council, and City Clerk-Treasurer shall be forthwith notified by any one of those 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 natural 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.

(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.
(1985 Code, § 2.08)

TITLE V: PUBLIC WORKS

Chapter

50. UTILITIES; GENERALLY

51. GARBAGE AND REFUSE

52. WATER SERVICE

53. SEWERAGE SERVICE

54. ELECTRIC SERVICE

CHAPTER 50: UTILITIES; GENERALLY

Section

50.01 Definitions
50.02 Fixing rates and charges for municipal utilities
50.03 Fixing rates and charges for public utilities
50.04 Contractual contents
50.05 Rules and regulations relating to municipal utilities
50.06 Connection or tapping prohibited; delinquent assessments or charges
50.07 Application of payment of utility charges

§ 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 limited to, water, sewerage, electric, 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.
(1985 Code, § 3.01)

§ 50.02 FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.

All rates and charges for municipal utilities, including, but not limited to, rates for service, permit fees, deposit connection and meter testing fees, disconnection fees, and reconnection fees, including

penalties for nonpayment, if any, shall be fixed, determined, and amended by the Council and adopted by resolution. 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. The Council may exempt senior citizens from refuse collection charges under guidelines established by the resolution fixing utility rates.
(1985 Code, § 3.02)

§ 50.03 FIXING RATES AND CHARGES FOR PUBLIC UTILITIES.

(A) All rates and charges for public utility franchisees, not regulated by an agency of the state, shall be fixed and determined by the Council and adopted by ordinance. The ordinances shall be listed and referred to in the Table of Special Ordinances, Table IV.

(B) Public utility company rates and charges may be fixed and determined by the respective franchisees in compliance with this section, as follows.

(1) No rate or charge involving an increase thereof shall become effective until approved by the Council. To request the increase, the franchisee shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within 90 days of filing the petition), and the reason or reasons necessitating the proposed increase or increases. The petition shall be filed with the Council by serving the same on the City Clerk-Treasurer in person or by certified mail, return receipt requested.

(2) Within 30 days of the filing the Council shall adopt a resolution and serve the same upon the resident superintendent of the franchisee in like manner as the petition may be served either approving the proposed increases or ordering a hearing thereon to be held within 60 days thereof. If no action is taken by the Council, the increase or increases shall take effect on the date stated in the franchisee's petition as though approved by the Council.

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

(4) Notice of hearing shall be in the form and manner stated in the resolution. At the hearing, all persons wishing to be heard thereon shall be afforded a reasonable opportunity. Findings and a decision shall be made by the Council within 15 days after the hearing and served upon the franchisee.
(1985 Code, § 3.03)

§ 50.04 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.
(1985 Code, § 3.04) Penalty, see § 10.99

§ 50.05 RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.

(A) *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. With the exception of churches, schools, and government agencies on board-approved expenditures, all utilities charges shall be delinquent if they are unpaid at the close of business on the tenth day of the month following the billing; provided that, if the tenth 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. A penalty of 10% of the current monthly bill shall be added to, and become part of, the existing delinquent account. 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.

(B) *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, and all fees, charges, and assessments required by this title have been paid in full. 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.

(C) *Discontinuance of service*. All municipal utilities may be shut off or discontinued, any time between any Monday at 9:00 a.m. and the following Friday at 9:00 a.m., whenever it is found that:

(1) 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 this code relative thereto, or any connection therewith;

(2) 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

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

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

(E) *Right of entry*. 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.

(F) *Meter test*. Whenever a consumer shall request the city to test any utility meter in use by him or her, the request shall be accompanied by a cash deposit for each meter to be tested. If any meter is found to be inaccurate, the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations, it shall be reinstalled and the deposit shall be retained by the city to defray the cost of the test.

(G) *Unlawful acts*.

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

(2) 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.

(3) 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 nonpayment of a bill, or for any other reason, without first having obtained a permit to do so from the city.

(4) 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.

(H) *Municipal utility services and charges a lien*.

(1) Payment for all municipal utility 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, and the like) 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 division (H)(1).

(2) Except as to the furnishing of retail natural, manufactured, or mixed gas or electric service to or for the public, and to the extent otherwise authorized by state law, each account is hereby made a lien upon the premises served. All the accounts which are more than 45-days' delinquent may, when authorized by resolution of the Council, be certified by the City Clerk-Treasurer to the County Auditor, and the City 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.

(3) As to the furnishing of retail natural, manufactured, or mixed gas or electric service to or for the public, and to the extent otherwise authorized by state law, the city shall not:

(a) Recover or attempt to recover payment for a tenant's outstanding bill or charge from a landlord, property owner or manager, manufactured home park owner, or manufactured home dealer who has not contract for the service;

(b) Condition service on payment of an outstanding bill or other charge for utility service due upon the outstanding account of a previous customer or customers when all of the previous customers have vacated the property; or

(c) Place a lien on the landlord's or owner's property for a tenant's outstanding bill or charge.

(I) *Municipal utility service outside the city*. The City Clerk-Treasurer is hereby authorized to furnish municipal utility service to consumers outside the city; provided, that the consumers specifically agree to all of the terms of this code, including, but not limited to, rules, regulations, and rates adopted thereunder and the right to specially assess delinquent services, charges, and penalties, and bear all costs incident to extending the service.
(1985 Code, § 3.05) (Ord. 2, passed 5-11-1999) Penalty, see § 10.99

§ 50.06 CONNECTION OR TAPPING PROHIBITED; DELINQUENT ASSESSMENTS OR CHARGES.

No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for the sewer or water main against the property to be connected is in default or delinquent. 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.
(1985 Code, § 3.06)

§ 50.07 APPLICATION OF PAYMENT OF UTILITY CHARGES.

In the event that any customer makes a payment of only a portion of the utility charges, including any penalty or fees, the amount paid shall apply to that portion previously billed before being applied to more recent or current charges.
(1985 Code, § 3.07) (Ord. 2-85, passed 6-4-1985)

CHAPTER 51: GARBAGE AND REFUSE

Section

51.01 Municipal Garbage Collection System
51.02 Definition
51.03 Transport
51.04 Containers
51.05 Dirt, rock, brush, and the like
51.06 Container replacement
51.07 Service charges
51.08 Storage
51.09 Assessment roll
51.10 Violations
51.11 Effective date

§ 51.01 MUNICIPAL GARBAGE COLLECTION SYSTEM.

There is hereby created and established a municipal garbage and refuse collection system, to be known and designated as the Municipal Garbage Collection System. For the purposes of carrying out this chapter, the City Council shall provide the trucks and equipment necessary and shall employ the necessary personnel; provided, however, that the City Council may grant, by contract to any person, firm, or corporation, the right and authority to collect and dispose of all garbage and refuse within the city upon any terms and conditions as the City Council may determine.
(Ord. passed 5-11-1993)

§ 51.02 DEFINITION.

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

GARBAGE AND OTHER REFUSE. 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, but does not include any material, such as earth, sand, brick, stone, plaster, or other similar substances that may accumulate as a result of construction operations.
(Ord. passed 5-11-1993)

§ 51.03 TRANSPORT.

It is unlawful for any person to transport garbage or other refuse except by reason of that person's employment with city, by acting within the course and scope of a written contract with the city, or by special permit from the City Council.
(Ord. passed 5-11-1993) Penalty, see § 10.99

§ 51.04 CONTAINERS.

(A) Except as otherwise provided in this section, all garbage and other refuse shall be placed and kept in those containers provided by the city, which shall be the only kind and type permitted for the keeping, storage, and holding of garbage and other refuse.

(B) All garbage and other refuse shall be drained of liquid so far as practical and placed into impervious bags of a kind and type that are sufficient strength and size to hold the contents without breakage or leakage, and the bags shall be closed and sealed prior to being placed in the city's supplied containers.

(C) The city's supplied containers shall be placed in those portions of the streets or alleyways as the city may deem necessary and proper, or upon private property pursuant to the agreement with the property owner. It is unlawful for any person except an employee or agent of the city to move city-supplied containers, except as provided by Council resolution.
(Ord. passed 5-11-1993) Penalty, see § 10.99

§ 51.05 DIRT, ROCK, BRUSH, AND THE LIKE.

It is unlawful to place refuse items such as dirt, sod, rock, plaster, iron, boards, tires, tree branches, hot ashes, brush, and leaves in a city container. The items shall be compacted and bundled and placed clear of the container, but the size of the bundles shall not exceed three feet in length and 50 pounds in weight, and shall only be placed along side the city container at the times as the city may designate, pursuant to notice for collection thereof .
(Ord. passed 5-11-1993) Penalty, see § 10.99

§ 51.06 CONTAINER REPLACEMENT.

The city shall initially furnish the containers and shall replace the container as may be necessary. However, the City Council may, by resolution, provide rules and regulations wherein the cost to replace the containers and/or the use and cost of required bags to be utilized in conjunction with the containers shall be paid by the owner/occupant of the premises. The cost of container replacement, if imposed upon the owner/occupant, shall be added to the service charges.
(Ord. passed 5-11-1993)

§ 51.07 SERVICE CHARGES.

There is hereby imposed upon each household and business or other establishment from which garbage or other refuse may be collected by the city a charge for the service in accordance with the schedule established from time to time by resolution of the City Council. Service charges shall be charged to the owner and occupant of the premises served, and shall be paid in accordance with City Council resolution. When any charges remain unpaid after the due date, a penalty of 10% shall be added thereto. Interest shall be charged on unpaid bills at the rate of 6% per year from the due date until paid. Receipts from service charges shall be credited to the General Fund when collected.
(Ord. passed 5-11-1993)

§ 51.08 STORAGE.

It is unlawful for any person to store garbage and other refuse, or transport same, except as provided in this chapter.
(Ord. passed 5-11-1993) Penalty, see § 10.99

§ 51.09 ASSESSMENT ROLL.

As soon as possible after September 1 of each year, the City Clerk-Treasurer shall prepare an assessment roll for garbage and refuse collection, which shall contain a list showing each lot and parcel of ground with respect to which service charges levied under this chapter remain unpaid. The Council shall thereupon levy an assessment for the unpaid garbage and refuse collection charges. The Clerk-Treasurer shall certify the assessment to the County Auditor for collection in accordance with law.
(Ord. passed 5-11-1993)

§ 51.10 VIOLATIONS.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $700 and/or imprisonment for not more than 90 days.
(Ord. passed 5-11-1993) Penalty, see § 10.99

§ 51.11 EFFECTIVE DATE.

This chapter shall take effect and be enforced from and after its passage, adoption, and publication.
(Ord. passed 5-11-1993)

CHAPTER 52: WATER SERVICE

Section

52.01 Deficiency of water and shutting off water
52.02 Repair of leaks
52.03 Abandoned services
52.04 Service pipes
52.05 Private water supplies
52.06 Restricted hours for sprinkling
52.07 Private fire hose connections
52.08 Opening hydrants
52.09 Unmetered service
52.10 Water meters
52.11 State Plumbing Code requirement
52.12 Additional rules and regulations

§ 52.01 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 ensure a supply for firefighting. 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.
(1985 Code, § 3.30)

§ 52.02 REPAIR OF LEAKS.

It is the responsibility of the consumer or owner to maintain the service pipe from the curb stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.03 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 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.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.04 SERVICE PIPES.

Every service pipe must be laid in the 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 curb stop and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops 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. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for a service up to 70 feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be three-fourths inch in diameter.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.05 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 buiIding is connected to "city water," the private water supply may be used only for the purposes as the city may allow.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.06 RESTRICTED HOURS FOR SPRINKLING.

Whenever the city shall determine that a shortage of water threatens the city, it may limit the times and hours during which water may be used from the city water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of the determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.07 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 any rates as the Council may adopt by resolution as herein provided.
(1985 Code, § 3.30)

§ 52.08 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.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.09 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.
(1985 Code, § 3.30)

§ 52.10 WATER METERS.

All water meters shall be of the remote type, and shall be purchased, installed, and maintained by the city, with no expense to the consumer. All repairs of water meters not resulting from normal usage shall be the responsibility of the property owner. All water meters shall be of sufficient size to serve the property and its facilities as required by city and state regulations.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.11 STATE PLUMBING CODE REQUIREMENT.

All piping, connections, and appurtenances shall be installed and performed strictly in accordance with the State 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.
(1985 Code, § 3.30) Penalty, see § 10.99

§ 52.12 ADDITIONAL RULES AND REGULATIONS.

The Council may, by resolution, adopt any additional rules and regulations relating to placement, size, and type of equipment as it, in its discretion, deems necessary or desirable. Copies of the additional rules and regulations shall be kept on file in the office of the City Clerk-Treasurer, and uniformly enforced.
(1985 Code, § 3.30)

CHAPTER 53: SEWERAGE SERVICE

Section

53.01 Definitions
53.02 Classification of industrial wastes
53.03 Deleterious substances
53.04 Unlawful discharge
53.05 Size, kind, and depth of pipe
53.06 Additional rules and regulations

§ 53.01 DEFINITIONS.

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

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

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

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

SEWERAGE SYSTEM. All street lateral, main, and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated, and disposed of; provided that this shall not include plumbing inside or a part of a building or premises served, or service sewers from a building to the street lateral.
(1985 Code, § 3.40)

§ 53.02 CLASSIFICATION OF INDUSTRIAL WASTES.

The city shall have the power to classify the industrial wastes from any lot, parcel of land, building, or premises discharged therefrom into the sewerage system of the city, taking into consideration the quantity of sewage produced and its concentration, strength of pollution qualities in general and of any other factors entering into the cost of its disposal, for the purpose of fixing and prescribing a distinct rate of rental or use charge, should it be found that as to the sewer uses the water basis consumption does not provide a practicable method in the premises, but until so determined and the distinct rate fixed, the water consumption basis hereinbefore prescribed shall remain in full force and effect as to the commercial or industrial users. The city may require and prescribe pretreatment on the consumer's premises.
(1985 Code, § 3.40)

§ 53.03 DELETERIOUS SUBSTANCES.

No sewage, including industrial wastes, shall contain any substance which is deemed deleterious by the city to the operation of the sewerage system or to any plant or facilities used in the treatment or disposal of the sewage. If a user of the sewerage system discharges excessive loads or any deleterious substances therein which are likely to retard or injuriously affect sewerage operations, he or she shall discontinue the practice and the practice is hereby declared to be a violation of this chapter. Each day of the violation continuing after having been notified in writing by the Director of Public Works to discontinue the practice shall be deemed a separate violation.
(1985 Code, § 3.40) Penalty, see § 10.99

§ 53.04 UNLAWFUL DISCHARGE.

(A) *Generally*. It is unlawful to discharge any of the following described wastes into the sewerage system.

(B) *Specifically*.

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

(2) Water or waste which contains more than 100 ppm by weight of fat, oil, or grease;

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

(4) Garbage, except such as has been properly shredded;

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

(6) Noxious or maladorous substances capable of creating a public nuisance; and/or

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

(1985 Code, § 3.40) Penalty, see § 10.99

§ 53.05 SIZE, KIND, AND DEPTH OF PIPE.

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

(1985 Code, § 3.40) Penalty, see § 10.99

§ 53.06 ADDITIONAL RULES AND REGULATIONS.

The Council may, by resolution, adopt any additional rules and regulations relating to placement, size, and type of equipment as it, in its discretion, deems necessary or desirable. Copies of the additional rules and regulations shall be kept on file in the office of the City Clerk-Treasurer, and uniformly enforced.

(1985 Code, § 3.40)

CHAPTER 54: ELECTRIC SERVICE

Section

54.01 National Electrical Code requirement
54.02 Services
54.03 Electrical installations
54.04 Replacing or converting to underground
54.05 Additional rules and regulations

§ 54.01 NATIONAL ELECTRICAL CODE REQUIREMENT.

(A) All wiring, connections, and appurtenances shall be installed and performed strictly in accordance with the National Electrical Code.

(B) Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections, shall, upon discovery by the city, be an additional ground for termination of electrical service to any consumer.
(1985 Code, § 3.50) Penalty, see § 10.99

§ 54.02 SERVICES.

(A) New or changed service installations shall be made at the expense of the consumer, placed underground where designated by the city, and the meter location shall also be designated by the city.

(B) Overhead service installations may be permitted by the city:

(1) Temporarily during new construction;

(2) Temporarily during an emergency to prevent danger to persons or property;

(3) For a period of not more than seven months when soil conditions make excavation for underground service impractical; or

(4) Where to require underground service, the consumer has shown that the requirement is unduly burdensome.
(1985 Code, § 3.50) Penalty, see § 10.99

§ 54.03 ELECTRICAL INSTALLATIONS.

(A) *Generally*. All electrical installations shall comply with the following, where applicable.

(B) *Specifically*.

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

(2) Any establishment having a total motor load of 125 HP or more is required to have 440 volts for its motor load.

(3) All motor installations of less than five HP shall be supplied with 240-volt single-phase energy, except:

(a) Motors of one-half HP or smaller may be 120 volt; or

(b) Three-phase motors of three HP or more may be served from existing secondary power circuits where only service wires and meters are required.

(4) The city shall make an installation charge for extraordinary expenses required by a consumer.
(1985 Code, § 3.50) Penalty, see § 10.99

§ 54.04 REPLACING OR CONVERTING TO UNDERGROUND.

(A) *Converting to underground.*

(1) The city may, at its option and at its expense, convert any present service where no change is otherwise required by the consumer, from overhead to underground.

(2) Where this is done, the city shall only cover and refill the trench and other ditching maintenance or repair, and all subsequent changing and repairing of the service shall be the obligation of the consumer.

(B) *Replacing*. Nothing herein shall prevent the city from replacing an overhead service with the same type.

(C) *Meters and placement service*. Placement of services and meters shall be determined by the city.
(1985 Code, § 3.50)

§ 54.05 ADDITIONAL RULES AND REGULATIONS.

The Council may, by resolution, adopt any additional rules and regulations relating to placement, size, and type of equipment as it, in its discretion, deems necessary or desirable. Copies of the additional rules and regulations shall be kept on file in the office of the City Clerk-Treasurer, and uniformly enforced.
(1985 Code, § 3.50)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC REGULATIONS

72. PARKING REGULATIONS

73. PARKING SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section

70.01 Definitions
70.02 Application
70.03 Scope and orders of officers
70.04 Traffic and parking control
70.05 Street openings or excavations
70.06 Requirement of sewer and water main service lateral installation
70.07 Violations
70.08 All-terrain vehicles
70.09 Snowmobiles

§ 70.01 DEFINITIONS.

Except as otherwise defined in this code, or where the context clearly indicates a contrary intent, the words and terms defined in M.S. Ch. 169, as it may be amended from time to time, shall be applicable to this title.
(1985 Code, § 7.01)

§ 70.02 APPLICATION.

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, or any county, town, city, district, or other political subdivision.
(1985 Code, § 7.02)

§ 70.03 SCOPE AND ORDERS OF OFFICERS.

(A) *Scope*. The provisions of this title relate exclusively to the streets, alleys, and private roads in the city, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon the streets, alleys, and private roads.

(B) *Orders of an 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.
(1985 Code, § 7.03) Penalty, see § 10.99

§ 70.04 TRAFFIC AND PARKING CONTROL.

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

(B) *Temporary restrictions*. The city, acting through the Police Chief, may temporarily restrict traffic or parking for any private, public, or experimental purpose. It is the duty of the Police Chief to so restrict traffic or parking where a hazardous condition arises or is observed.

(C) *Traffic restrictions and 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.

(D) *Packing restrictions and 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.

(E) *Damaging or moving markings*. 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 any other authority.
(1985 Code, § 7.04) Penalty, see § 10.99

§ 70.05 STREET OPENINGS OR EXCAVATIONS.

(A) *Generally*. 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 Director of Public Works as herein provided.

(B) *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 any other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the Director of Public Works.

(C) *Investigation and payment of estimated costs*. Upon receipt of the application, the Director of Public Works shall cause any investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as backfilling, 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.

(D) *Protection of the city and the public*.

(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.

(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 on which the city is named as a co-insured.

(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.

(E) *Issuance of permit*. The Director of Public Works shall issue the permit after:

(1) Completion of the investigation;

(2) Payment by the applicant in advance of all estimated costs as aforesaid;

(3) Agreement by the applicant to the conditions of time and manner as aforesaid;

(4) Agreement in writing by the applicant to pay all actual cost of repairs over and above the estimate, including cost of the investigation; and

(5) Agreement in writing by the applicant to be bound by all of the provisions of this section.

(F) *Repairs*. All temporary and permanent repairs, including backfilling, compacting, and resurfacing shall be made, or contracted for, by the city in a manner prescribed by the Director of Public Works and an accurate account of costs thereof shall be kept.

(G) *Cost adjustment*. Within 60 days following completion of the permanent repairs the City 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.

(H) *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.
(1985 Code, § 7.07) Penalty, see § 10.99

§ 70.06 REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.

(A) *Requirement of sewer and water laterals*. No petition for the improvement of a street shall be considered by the Council if the petition contemplates constructing therein any part of a pavement or stablized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along the street will be served by the utilities installed in the street.

(B) *Sewer system service and water main service laterals*. No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

(C) *Waiver*. The Council may waive the requirements of this section only if it finds the effects thereof are burdensome and upon the notice and hearing as the Council may deem necessary or proper.
(1985 Code, § 7.09)

§ 70.07 VIOLATIONS.

(A) *Generally*. 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 follows.

(B) *Specifically*.

(1) Where the specific section, division, or provision specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor; where he or she stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

(2) As to any violation not constituting a misdemeanor under the provisions of division (B)(1) above, he or she shall be punished as for a petty misdemeanor.
(1985 Code, § 7.99) Penalty, see § 10.99

§ 70.08 ALL-TERRAIN VEHICLES.

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

ALL-TERRAIN VEHICLE or ***VEHICLE.*** 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 a class 2 all-terrain vehicle.

CLASS 1 ALL-TERRAIN VEHICLE. An all-terrain vehicle that has a total dry weight of less than 900 pounds.

CLASS 2 ALL-TERRAIN VEHICLE. An all-terrain vehicle that has a total dry weight of 900 to 1,500 pounds.

DESIGNATED ALL-TERRAIN VEHICLE ROUTE. The route established by resolution of the City Council from time to time, which route shall be authorized for the operation of all-terrain vehicles which otherwise comply with the provisions of M.S. §§ 84.92 through 84.928, as they may be amended from time to time.

OWNER. A person, other than a person with a security interest, having a property interest or title to an all-terrain vehicle and entitled to the use and possession of the vehicle.

PERSON. Any individual or organization as defined in M.S. § 336.1-201, Paragraph 30, as it may be amended from time to time.

(B) No all-terrain vehicle as described in this section may be driven or operated upon any highway, public thoroughfare, alleyway, or any other public property within the city limits, including any operation of the vehicle which is used to make a crossing of the highway, public thoroughfare, alleyway, or other public property in order to make a crossing from one parcel of private property to another parcel of private property, except operation upon a designated all-terrain vehicle route within the city limits.

(C) A route map indicating designated all-terrain vehicle routes within the city limits shall be prepared, maintained, and posted at the office of the City Clerk-Treasurer and the office of the City Police Department.

(D) Any person who violates any provision of this section, and the owner of any all-terrain vehicle operated by a person who violates any provision of this section, shall be guilty of a petty misdemeanor, as defined by state statute.
(Ord. passed - -) Penalty, see § 10.99

§ 70.09 SNOWMOBILES.

(A) No snowmobiles as described in this section may be driven or operated upon any highway, public thoroughfare, alleyway, or any other public property within the city limits, including any operation of the vehicle which is used to make a crossing of the highway, public thoroughfare, alleyway, or other public property in order to make a crossing from one parcel of private property to another parcel of private property, except operation upon a designated snowmobile route within the city limits.

(B) A route map indicating designated snowmobile routes within the city limits shall be prepared, maintained, and posted at the office of the City Clerk-Treasurer and the office of the City Police Department.

(C) Any person who violates any provision of this section, and the owner of any snowmobile operated by a person who violates any provision of this section, shall be guilty of a petty misdemeanor, as defined by state statute.
Penalty, see § 10.99

CHAPTER 71: TRAFFIC REGULATIONS

Section

71.01 State statutes adopted by reference
71.02 Exhibition driving
71.03 Recreational motor vehicles, including snowmobiles
71.04 Operation or parking on public sidewalks or walkways
71.05 Violations

§ 71.01 STATE STATUTES ADOPTED BY REFERENCE.

Except as otherwise provided in this title, the regulatory and procedural provisions of M.S. Ch. 168, M.S. Ch. 169 (commonly referred to as the Highway Traffic Regulation Act), and M.S. Ch. 171, as they may be amended from time to time, are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.
(1985 Code, § 8.01) (Ord. 1-85, passed 6-4-1985; Ord. 5, passed 5-11-1999)

§ 71.02 EXHIBITION DRIVING.

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

(B) *Unlawful act*.

(1) 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 injury to persons or damage to property; provided, that this section shall not apply to driving on a racetrack.

(2) 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.
(1985 Code, § 8.02) Penalty, see § 10.99

§ 71.03 RECREATIONAL MOTOR VEHICLES, INCLUDING SNOWMOBILES.

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

ALL-TERRAIN VEHICLE or ***ATV.*** Trail bikes, amphibious vehicles, and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not "special mobile equipment" as defined in M.S.A. 168.002, Subd. 31, as it may be amended from time to time, which is hereby incorporated herein by reference.

MOTORCYCLE. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, whether or not designed for use on streets and highways, including motor scooters, bicycles with motor attached other than those herein defined as motorized bicycles, and mini-bikes.

MOTORIZED BICYCLE. A bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor of a capacity of less than 50 cubic centimeters piston displacement, and a maximum of two-break 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.

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

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

OWNER. 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.

RECREATIONAL MOTOR VEHICLE. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including, but not limited to, a motorcycle, motorized bicycle, all-terrain vehicle, snowmobile, hovercraft, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.

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

(B) *Recreational motor vehicle operating restrictions*. It is unlawful for any person to operate a recreational motor vehicle as follows:

(1) On a public sidewalk or walkway provided or used for pedestrian travel;

(2) On private property of another without lawful authority or permission of the owner or occupant;

(3) On any lands owned or occupied by a public body or on frozen waters, including, but not limited to, school grounds, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails, and golf courses; provided, however, that the Council may, by resolution, specifically permit use on city property, in which event the shortest route to and from areas so permitted shall be used;

(4) While the operator is under the influence of liquor or narcotics, or habit-forming drugs;

(5) At a rate of speed greater than ten mph under all of the surrounding circumstances;

(6) In a careless, reckless, or negligent manner so as to endanger the person or property of another or cause injury or damage there to;

(7) Towing any person or thing on a public street or highway, except through the use of a rigid tow bar attached to the rear of an automobile;

(8) At a speed greater than ten 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;

(9) 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;

(10) Chasing, running over, or killing any animal, wild or domestic; and

(11) During the hours between 11:00 p.m. of one day and 7:00 a.m. of the day next following, except that during those hours a motorcycle or motorized bicycle, if otherwise lawfully operated, may be operated on a public street.

(C) *Owner responsibility*.

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

(2) Every person leaving a recreational motor vehicle in a public place shall lock the ignition, remove the key, and take the same with him or her.

(D) *Additional snowmobile opera ting regulations.*

(1) It is unlawful for any person to operate a snowmobile upon the roadway, shoulder, or inside bank or slope of any street or highway. Operation in the ditch or on the outside bank within the right-of-way of any street or highway except interstate highways or freeways is permitted in conformance with state law and this code, unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes. Between the hours of one-half hour after sunset to one-half hour before sunrise, any operation may only be on the right-hand side of the street or highway and in the same direction as the highway traffic on the nearest lane of the roadway adjacent there to.

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

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

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

(c) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard;

(d) In crossing a divided street or highway, the crossing is made only at an intersection of the street or highway with another public street or highway; and

(e) It the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

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

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

(5) No person under 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 14 years of age or older, but less than 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 or she has in his or her immediate possession a valid snowmobile safety certificate issued by the Commissioner of Conservation as provided by M.S. § 84.86, as it may be amended from time to time. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this division (D)(5).

(E) *Snowmobile equipment*. It is unlawful for any person to operate a snowmobile unless it is equipped with the following:

(1) 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 9-1-1970. No person shall use a muffler cut-out, 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;

(2) Brakes adequate to control the movement of and to stop and hold the snowmobile under any conditions of the operation;

(3) A safety or so-called "deadman" throttle in operating condition, so that when pressure is removed from the accelerator or throttle, the motor is disengaged from the driving track;

(4) At least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red 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; and

(5) Reflective material at least 16 inches on each side, forward of the handlebars, so as to reflect or beam light at a 90-degree angle.
(1985 Code, § 8.03) Penalty, see § 10.99

§ 71.04 OPERATION OR PARKING ON PUBLIC SIDEWALKS OR WALKWAYS.

It is unlawful for any person to operate or park any motor vehicle as defined in M.S. § 169.011, as it may be amended from time to time, on a public sidewalk or walkway provided or used for pedestrian travel.
(Ord. passed 3-24-1998) Penalty, see § 10.99

§ 71.05 VIOLATIONS.

(A) *Generally*. 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 follows.

(B) *Specifically*.

(1) Where the specific section, division, or provision specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor; where he or she stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

(2) As to any violations not constituting a misdemeanor under the provisions of division (B)(1) above, he or she shall be punished as for a petty misdemeanor.

(3) As to any violation of a provision adopted by reference, he or she shall be punished as specified in the provision so adopted.
(1985 Code, § 8.99) Penalty, see § 10.99

CHAPTER 72: PARKING REGULATIONS

Section

72.01 Presumption
72.02 General parking prohibitions
72.03 Unauthorized removal
72.04 Direction to proceed
72.05 Parallel parking
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§ 72.01 PRESUMPTION.

As to any vehicle parking in violation of this title 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. (1985 Code, § 9.01)

§ 72.02 GENERAL PARKING PROHIBITIONS.

(A) *Generally*. 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.

(B) *Specifically*.

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within ten feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at any intersection;

(7) In a sign-posted fire lane;

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

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

(10) 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;

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

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

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

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

(15) 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, and in such a manner as to not restrict emergency vehicle traffic.
(1985 Code, § 9.02) Penalty, see § 10.99

§ 72.03 UNAUTHORIZED REMOVAL.

It is unlawful for any person to move a vehicle not owned by that person into any prohibited area or away from a curb any distance as is unlawful.
(1985 Code, § 9.03) Penalty, see § 10.99

§ 72.04 DIRECTION TO PROCEED.

It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control, or regulate traffic.
(1985 Code, § 9.04) Penalty, see § 10.99

§ 72.05 PARALLEL PARKING.

Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or both, each vehicle stopped or parked upon a 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.
(1985 Code, § 9.05) Penalty, see § 10.99

§ 72.06 STREETS WITHOUT CURBS.

Upon streets not having a curb, each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main-traveled part of the street; and it is unlawful to park in violation of this section.
(1985 Code, § 9.06) Penalty, see § 10.99

§ 72.07 PARKING HOURS.

(A) *Generally*. Parking on streets shall be limited as follows.

(B) *Specifically*.

(1) It is unlawful for any person to stop, park, or leave standing any vehicle upon any street for a continuous period in excess of 36 hours.

(2) The Police Chief 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.

(3) 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.

(4) 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.
(1985 Code, § 9.07) Penalty, see § 10.99

§ 72.08 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. 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.
(1985 Code, § 9.10)

§ 72.09 UNATTENDED VEHICLE.

(A) It is unlawful for any person to leave a motor vehicle unattended and unlocked while the engine is running.

(B) It is unlawful for any person to leave a motor vehicle unattended and unlocked with the key in the ignition.
(1985 Code, § 9.11) Penalty, see § 10.99

§ 72.10 PARKING FOR THE PHYSICALLY HANDICAPPED.

(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.

(B) It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing a motor vehicle:

(1) In a sign-posted fire lane at any time; or

(2) In lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.
(1985 Code, § 9.12) Penalty, see § 10.99

§ 72.11 VIOLATIONS.

(A) *Generally*. 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 follows.

(B) *Specifically*.

(1) Where the specific section, division, or provision specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor; where he or she stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

(2) As to any violation not constituting a misdemeanor under the provisions of division (B)(1) above, he or she shall be punished as for a petty misdemeanor.
(1985 Code, § 9.99) Penalty, see § 10.99

CHAPTER 73: PARKING SCHEDULES

Schedule

I. Truck parking
II. Calendar parking

SCHEDULE I. TRUCK PARKING.

(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.

(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.

(C) It is unlawful to park a commercial vehicle on Broadway Street for longer than two hours. (1985 Code, § 9.09) (Ord. passed 11-12-2002) Penalty, see § 10.99

SCHEDULE II. CALENDAR PARKING.

(A) The calendar system of parking is hereby adopted which means that all parking from 12:00 p.m. midnight to 12:00 p.m. midnight on even days of the month shall be allowed only on the even side of the street or avenue and on the odd days of the month on the odd side of the street or avenue commencing November 1 and continuing until May 1 of each year. The allowed changeover period during each day shall be from 6:00 p.m. to 12:00 p.m.

(B) During calendar parking, any police officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended for a period of 48 hours and constitutes an obstruction to traffic or hinders snow removal or street improvement or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for a violation of this schedule. Violation of this schedule shall result in fines to be established by Council resolution from time to time.

(C) On Broadway Avenue, there shall be no parking between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(D) The use of extension cords over or across sidewalks within the city is prohibited.
(1985 Code, § 9.08) (Ord. 1995-1, passed 12-12-1995) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS

Chapter

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91. PARKS AND RECREATION

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CHAPTER 90: ABANDONED PROPERTY

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DISPOSAL OF ABANDONED MOTOR VEHICLES

§ 90.01 DEFINITIONS.

For the purpose of this subchapter, 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. Ch. 169, as it may be amended from time to time, that has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of the property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the city. A classic car or pioneer car, as defined in M.S. Ch. 168, as it may be amended from time to time, shall not be considered an ***ABANDONED MOTOR VEHICLE*** within the meaning of this chapter. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with this code, shall not be considered ***ABANDONED MOTOR VEHICLES*** within the meaning of this chapter.

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

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to state statutes, but is not a junk vehicle or abandoned vehicle.

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.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.02 CUSTODY.

The city may take into custody and impound any abandoned or junk motor vehicle, or any unauthorized vehicle as provided by statute.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.03 SALE; WAITING PERIODS.

(A) An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be a junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale; or an abandoned motor vehicle.

(B) An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.04 NOTICE.

(A) When an impounded vehicle is taken into custody, the city or impound lot operator 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 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 § 90.05, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under statute shall be deemed a waiver by them of all rights, title, and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 90.06.

(B) The notice shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and to all readily identifiable lien holders of record. This information shall be made available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.05 RIGHT TO RECLAIM.

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

(B) Nothing in this subchapter 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. (1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.06 AUCTION OR SALE.

(A) An abandoned or unauthorized motor vehicle and contents taken into custody by the city or any impound lot and not reclaimed under § 90.05 may be disposed of or sold at auction or sale when eligible pursuant to § 90.05.

(1) 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.

(2) 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 the vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) From the proceeds of the sale of an abandoned or unauthorized motor vehicle by the city or public impound lot, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this subchapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the City General Fund.

(C) The operator of a nonpublic impound lot may retain any proceeds from a sale derived from a sale conducted under the authority of this chapter. The operator may retain all proceeds from the sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale; except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency. (1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.07 OPERATOR'S DEFICIENCY CLAIM.

(A) The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage, and inspection of the vehicle minus the proceeds of the sale or auction.

(B) The claim for storage costs may not exceed the cost of 25-days' storage for an abandoned or junk vehicle and 55-days' storage for a vehicle determined to be an unauthorized vehicle. (1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.08 DISPOSAL OF VEHICLES.

Where no bid has been received for an abandoned or junk motor vehicle, the city may dispose of it in accordance with this subchapter.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.09 CONTRACTS AND DISPOSAL.

(A) 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.

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

(C) 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.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

DISPOSAL OF UNCLAIMED PROPERTY

§ 90.20 DEFINITION.

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

ABANDONED PROPERTY. Tangible or intangible property that has lawfully come into the possession of the city in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the city for at least 60 days and has been declared such by a resolution of the Council.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.21 PRELIMINARY NOTICE.

If the City Clerk-Treasurer knows the identity and whereabouts of the owner, he or she shall serve written notice upon him or her 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 Clerk-Treasurer notice shall also be served upon him or her. 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.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.22 NOTICE AND SALE.

Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk-Treasurer 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 in a legal newspaper at least ten days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

§ 90.23 FUNDS AND CLAIMS THEREON.

Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the General Fund of the city if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct the sale. The former owner, if he or she makes claim within six months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest.
(1985 Code, § 2.71) (Ord. 1, passed 5-11-1999)

DISPOSAL OF EXCESS PROPERTY

§ 90.35 DECLARATION OF SURPLUS AND AUTHORIZING SALE OF PROPERTY.

The City Clerk-Treasurer may, from time to time, recommend to the Council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the Council, sale property shall be declared surplus, the value estimated and the City Clerk-Treasurer authorized to dispose of the property in the manner stated herein.
(1985 Code, § 2.71)

§ 90.36 SURPLUS PROPERTY WITH A TOTAL ESTIMATED VALUE OF LESS THAN $100.

The City Clerk-Treasurer may sell surplus property with a total value of less than $100 through negotiated sale.
(1985 Code, § 2.71)

§ 90.37 SURPLUS PROPERTY WITH A TOTAL ESTIMATED VALUE BETWEEN $100 AND $500.

The City Clerk-Treasurer 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 Clerk-Treasurer's option. The sale shall be by auction.
(1985 Code, § 2.71)

§ 90.38 SURPLUS PROPERTY WITH A TOTAL ESTIMATED VALUE OVER $500.

The City Clerk-Treasurer 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.
(1985 Code, § 2.71)

§ 90.39 RECEIPTS FROM SALES OF SURPLUS PROPERTY.

All receipts from sales of surplus property under this chapter shall be placed in the General Fund.
(1985 Code, § 2.71)

EXCEPTIONS

§ 90.50 PERSONS WHO MAY NOT PURCHASE.

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

(B) It is unlawful for any person to be a purchaser of property under this chapter if the purchase is prohibited by the terms of this chapter.
(1985 Code, § 2.71) Penalty, see § 10.99

CHAPTER 91: PARKS AND RECREATION

Section

91.01 Definition
91.02 Scope
91.03 Closing hours and fees
91.04 Additional rules, permits, and exceptions
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91.07 Destruction, entry, cleaning, and refuse
91.08 Vehicles
91.09 Fires; fireworks; firearms
91.10 Animals
91.11 Beaches
91.12 Sherwood Forest Recreation Area

§ 91.01 DEFINITION.

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

PARK, ***CITY PARK***, and ***GILBERT-SPARTA BEACH AND BOAT LANDING.*** All lands and water heretofore and hereafter acquired by the city for park and recreational purposes or placed under the jurisdiction of the city and include, without limitation, parks, beaches, swimming pools, and privately owned lands, the use of which has been granted to the city for park, recreational, or like public purposes. The following areas are designated as city parks: Hopkins Park, Kennedy Park, boat landing, and beach. (1985 Code, § 10.08)

§ 91.02 SCOPE.

Except when the context provides otherwise, the provisions of this chapter shall apply to all lands, structures, and property owned, leased, or administered by the city, and under the management, supervision, and control of the City Park and Recreation Department.
(1985 Code, § 10.08)

§ 91.03 CLOSING HOURS AND FEES.

(A) It is unlawful for any person to enter or be in any city park between the hours of 9:00 p.m. and the following day at 7:00 a.m., except when a park lodge has been rented for a special event, on which occasion the closing hour shall be 1:00 a.m. Everyone must be out at 1:00 a.m.

(B) The fee schedule will be set by the Council and by the Park and Recreation Department, at every annual budget, or from time to time.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.04 ADDITIONAL RULES, PERMITS, AND EXCEPTIONS.

(A) *Additional rules*. Rules and regulations may be made from time to time, governing the further use and enjoyment of parks, parkways, playgrounds, beaches, boat landing, and the facilities thereof. Any person who shall violate the rules or regulations, or who refuses to subject himself or herself thereto, may be excluded from the use of the facility.

(B) *Permits*. Any person to whom a permit shall have been issued by the Park and Recreation Department or agent thereof shall be bound by this code and rules of parks of the city as fully as though the same were inserted in each permit.

(C) *Exceptions*. Nothing in this chapter shall prohibit or hinder the Council, supervisors, park managers, or other duly authorized agents, or any peace officer, from performing their official duties.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.05 PUBLIC MEETINGS AND SALES.

(A) Permits will be granted for the purpose of holding any lawful public assembly in accordance with published regulations governing the reasonable use of parks.

(B) It is unlawful to use in any manner the dock, boat landing, or the waters in or immediately adjacent to any city park for the purpose of soliciting rides of any kind unless authorized by the Council.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.06 PERSONAL CONDUCT AND NUISANCES.

(A) *Personal conduct*. It is unlawful for any person to indulge in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which conduct tends to cause or provoke a disturbance, or to be so intoxicated that he or she is unable to care for his or her own safety, in any city park.

(B) *Unnecessary noises*. It is unlawful for any person to operate sound trucks, loud speakers, motors, motorboats, motor vehicles, or any other mechanical devices that produce undue or unnecessary noises without first obtaining a written permit from the Council or its duly authorized agent.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.07 DESTRUCTION, ENTRY, CLEANING, AND REFUSE.

(A) *Destruction, defacement, or removal*. It is unlawful for any person to disturb, molest, deface, remove, or destroy any trees, shrubs, plants, or other natural growth; to carve on any rocks, archaeological features, signs, walls, or structures; to drive nails in trees, or to move, injure, or deface in any manner any structures including buildings, signs, fences, tables, or other city property.

(B) *Entry and manipulation*. It is unlawful for any person to enter in any way any building, installation, or area after the posted closing time or before the posted opening time, or contrary to posted notices, in any park.

(C) *Refuse*. It is unlawful for any person to dispose of any garbage, sewage, bottles, tin cans, paper, or other waste material in any manner except by placing in receptacles provided for those purposes, or to dump any such refuse in any park. Throwing bottles, tin cans, garbage, sewage, or other refuse in the water or on the ice of any river or stream or along roads in any city park is prohibited.

(D) *Charcoal residue*. Charcoal residue must be left in a grate or fireplace until cool or placed in receptacles provided for those purposes.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.08 VEHICLES.

(A) It is unlawful for any person to operate any vehicle at a speed in excess of 15 mph or contrary to official traffic signs in any city park.

(B) It is unlawful for any person to operate any vehicle in any park in a reckless manner contrary to the provision of M.S. § 169.13, as it may be amended from time to time.

(C) It is unlawful for any person to operate or park any motor vehicle, except as provided for herein, upon any baseball field, bridle path, hiking trail, beach area, playground, picnic area, or any other area other than established roads, parking areas, boat ramps, and service areas or contrary to posted notice or within any park seasonally closed to vehicular traffic.

(D) It is unlawful for any person to park, stop, or leave standing, whether attended or unattended, any vehicle, obstruction, or watercraft in any manner as to block, obstruct, or limit the use of any road, trail, parking lot, boat landing, waterway, or winter sport facility; or outside of any area provided for those purposes when it is practical to use those areas; or contrary to posted notice; or between the hours of 9:00 p.m. and the following day at 7:00 a.m.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.09 FIRES; FIREWORKS; FIREARMS.

(A) *Fires*. It is unlawful for any person to start, tend, or maintain any fire, or to burn any refuse, except at designated fireplaces, fire rings, or grills within any city park, except that fires for cooking or heating may be made in portable stoves, heaters, or grills at designated-picnic areas.

(B) *Fireworks*. It is unlawful for any person to possess, fire, discharge, explode, or set off any squib, crackers, or other explosive or pyrotechnic device containing powder, or other combustible or explosive material within the limits of any city park, excepting the exhibitions of fireworks given under the direction or by the permission of the Council or its duly authorized agent are permitted.

(C) *Firearms*. It is unlawful for any person to have in his or her possession or under his or her control any firearm or airgun as defined in the state statues, unless the same is unloaded and enclosed in a carrying case, or any bow unless the same is unstrung or enclosed in a carrying case in any city park.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.10 ANIMALS.

(A) *Pets*. It is unlawful for any person to allow pets to enter any public building, bathing beach, picnic grounds, or playgrounds, within any city park, or to run at large at any time on city park grounds. In those areas where pets are permitted dogs shall at all times be kept on a leash not more than eight feet long. All pets shall be effectively restrained or under the owner's control at all times. No person shall allow his or her pet to deprive or disrupt the enjoyment or use of any area by others.

(B) *Hunting and trapping*. It is unlawful for any person to take, catch, kill, hunt, trap, pursue, or otherwise disturb any wild animals or birds in any city park.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.11 BEACHES.

(A) It is unlawful to swim beyond or disturb or molest a bathing beach boundary buoy or marker in any swimming beach in any city park.

(B) It is unlawful for any person to swim or bathe in the water fronting any bathing beach during electrical storms or in dangerous weather or more than 50 yards from the shore line of any bathing beach, or beyond the limits of beach marker buoys where the buoys are provided.

(C) It is unlawful to have any boat, watercraft or person to fish inside the buoy or markers of the bathing beach while that beach is open.

(D) It is unlawful to have any boat or watercraft inside the buoy or markers within any bathing beach.

(E) It is unlawful for any person to carry on unnecessary conversation with lifeguards or falsely call for help or assistance; or stand or sit upon or cling to any lifeguard perches or, except in emergency, to climb into or cling to any lifeguard boats.

(F) Any person having, or apparently having, any infectious disease shall be prohibited from entering onto any bathing beach or into any bathing house or waters adjacent thereto.
(1985 Code, § 10.08) Penalty, see § 10.99

§ 91.12 SHERWOOD FOREST RECREATION AREA.

(A) There is hereby established camp sites, recreation areas, and picnic grounds owned by the city and known as Sherwood Forest Recreation Area.

(B) All persons using the camp sites, picnic grounds, or recreation areas of Sherwood Forest, or otherwise present on Sherwood Park area, shall comply with the following rules and regulations, and violations of this section:

(1) Maintain the camp sites, picnic grounds, and recreation areas in a clean, orderly, and sanitary condition at all times, and shall deposit all garbage, refuse, and debris in the containers locked in the area as provided for by the city;

(2) No animals, except household pets, shall be permitted in any of the areas and dogs, cats, or other animals or pets shall not be permitted to run loose, and no animals shall be allowed on the swimming beach area;

(3) No fires of any kind shall be permitted in any area except in the grills provided for in the camping and picnic areas;

(4) It shall be unlawful to destroy, mutilate, or deface any property within Sherwood Forest Recreation Area. It shall be unlawful to remove any object or property from any area, or to cut any tree or peel the bark of any tree in any area, or to make any excavations, without the prior consent of the City Council, or its designee or caretaker;

(5) No fishing shall be permitted from the boat docks and no fish shall be cleaned in any of the areas of the park, except in the fish cleaning house;

(6) No person shall create any disturbances; engage in brawling or fighting; disturb any meeting or person using the premises; engage in offensive, obscene, or abusive language or conduct himself or herself in a boisterous or noisy manner tending reasonably to arouse alarm, anger, or resentment in others;

(7) No group or organization of ten or more people shall use any of the facilities of Sherwood Forest as a group or organization without first having received the permission of the City Council or its designee or caretaker;

(8) No vehicle shall be driven on any roadway or path in Sherwood Forest Park in excess of the posted speed limits for which the roadway or path is posted. It shall be unlawful to obstruct, and all automobiles and vehicles shall be parked only in designated parking areas;

(9) No person shall camp in a tent, or park a trailer, or park a boat trailer or motor vehicle in a camp site for overnight purposes without first having registered and paid the required fees; however, late arrivals shall register no later than 9:00 a.m. the following morning;

(10) It is unlawful to anchor any boat, canoe, or vessel on the shorelines of Sherwood Forest, unless the person owning the boat, canoe, or vessel, or having control thereof, is actually camping or fishing or using the area and has anchored the boat, canoe, or vessel for temporary purposes;

(11) No person, family, organization, group of persons, or camping unit shall use the same camp site or trailer site for a period of more than 14 consecutive days; longer stays must move to a different camp site, with the different camp site designation being subject to reasonable guidelines and restrictions by the City Council, its designee or caretaker;

(12) Fees for the use of the camp sites, trailer sites, or recreation areas shall be the fees as may be determined by resolution of the City Council;

(13) No motor vehicle travel into or around the camping area is allowed after 10:30 p.m. unless a registered camper is returning to his or her camp site, or an emergency exists;

(14) No one under the age of 18 years will be allowed to camp overnight unless accompanied by his or her or her parent or legal guardian, or adult supervised groups (scouts and the like);

(15) No one shall loiter in the park area after 10:30 p.m.;

(16) Only one camping unit is allowed per camp site, without the prior consent of the caretaker; if more than one unit is allowed, each unit shall pay the required daily fee;

(17) Camping in the field will be restricted to marked camp sites, unless prior approval is given by the City Council, its designee or the caretaker; and

(18) All persons shall comply with the reasonable requests or directives made by the City Council, its designee, the caretaker or the police.

(C) Any person violating any provisions of this section shall be guilty of a petty misdemeanor.

(D) This section shall take effect upon its passage and publication.
(Ord. 10.08, passed 7-15-1986) Penalty, see § 10.99

CHAPTER 92: ANIMALS

Section

92.01 Definitions
92.02 Running at large prohibited
92.03 Feces
92.04 Rabies vaccine
92.05 Number per dwelling
92.06 Barnyard animals
92.07 License fee
92.08 Impoundment
92.09 Interference
92.10 Molestation and intimidation prohibited
92.11 Counterfeit tags
92.12 Barking and the like
92.13 Ferocious or vicious animals; attacks or bites; quarantine
92.14 Females in heat
92.15 Violations

§ 92.01 DEFINITIONS.

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

ACO. Animal Control Officer.

ANIMAL. A domestic dog or cat or dog kind.

CAT. Both male and female and includes any animal of the domestic feline kind.

DANGEROUS ANIMAL. An animal which has caused damage to property or injury to a person or other animals, or which animal, by its actions, exhibits a propensity for imminent danger to persons or other animals.

DOG. Both male and female and includes any animal of the dog kind.

OWN. To have property interest in, or to harbor, feed, board, keep, or possess.

OWNER. A person who owns an animal hereby regulated.
(Ord. 10.03, passed - -)

§ 92.02 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."
Penalty, see § 10.99

§ 92.03 FECES.

It is required that an owner who walks his or her animal within city limits, on property other than his or her own, will be responsible for all feces pickup.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.04 RABIES VACCINE.

No license or tag shall be issued by the City Clerk-Treasurer for a dog or cat which has reached the age of six months unless the applicant shall present a current certificate from a veterinarian certifying that the dog or cat to be licensed has been inoculated with a permanent-type chick embryo rabies vaccine.
(Ord. 10.03, passed - -)

§ 92.05 NUMBER PER DWELLING.

No person shall exceed the number of three animals per dwelling unit. This section shall not apply to a licensed kennel.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.06 BARNYARD ANIMALS.

It shall be unlawful for any person, persons, firm, or corporation to keep, maintain, stable, yard, or fence any cow, bull, steer, calf, ox, goat, sheep, horse, stallion, mare, mule, swine, chicken, or other non-domestic or barnyard animal within the platted area of the city.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.07 LICENSE FEE.

The annual license fee shall be $5 for each altered (spayed or neutered) animal and $10 for each unaltered animal. All licenses shall expire on December 31 of each year.
(Ord. 10.03, passed - -)

§ 92.08 IMPOUNDMENT.

(A) The ACO or his or her assistant shall impound any dog or cat found unlicensed, without a large metal tag attached to his or her collar, or running at large, and they are empowered and instructed to enter upon any private premises where they have reasonable cause to believe there is an unlicensed or untagged dog or cat or while in pursuit of a dog or a cat running at large.

(B) Any animal impounded by the ACO will be taken to the holding facility and shall be housed and fed in a humane manner and the holding facility shall be kept clean.

(1) Every animal placed in the holding facility shall be held for redemption by the owner for at least five regular business days. A ***REGULAR BUSINESS DAY*** is one during which the holding facility is open for business to the public for at least eight hours between 8:00 a.m. and 4:00 p.m., Monday through Friday.

(2) Impoundment records shall be preserved for at least six months and shall show: the description of the animal by species, breed, sex, approximate age, and any other distinguishing detail; the location at which the animal was seized; the date of the seizure; the name and address of the owner of the animal; and the name and address of the person the animal is transferred to, if not the owner. The releasing fee for impounded animals is $35. If animal is unclaimed, the animal shall be humanely destroyed and the carcass disposed of. After the five-day holding period the impounded animal may be released to the Mesabi Humane Society for adoption. Adopting individuals must apply for and obtain a city license.

(C) Upon impounding of any animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five days at the City Hall and at the pound describing the animal and place and time of taking.
(Ord. 10.03, passed - -)

§ 92.09 INTERFERENCE.

It shall be unlawful for any unauthorized person to break open the holding facility or attempt to do so, or take or let out any dogs or cats therefrom, or to take or attempt to take from any officer any dog or cat taken up by him or her in compliance with this chapter, or in any manner to interfere or hinder the officer in the discharge of his or her duties under this chapter.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.10 MOLESTATION AND INTIMIDATION PROHIBITED.

It shall be unlawful and a violation of this chapter for any person to molest or intimidate a dog or a cat.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.11 COUNTERFEIT TAGS.

It shall be unlawful to counterfeit or attempt to counterfeit the tags provided for in this chapter for licensing or take from any dog or cat a tag legally placed upon it with intent to place it upon another dog or cat. Tags shall not be transferable and no refunds shall be made for any reason.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.12 BARKING AND THE LIKE.

(A) It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises. The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in this chapter, to search for and seize the animal.

(B) No owner shall permit his or her dog or cat to damage or destroy any lawn, garden, shrubbery, foliage, or any other property within the city. Any person found guilty of violating the terms and provisions of this division (B) shall be guilty of a misdemeanor.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.13 FEROCIOUS OR VICIOUS ANIMALS; ATTACKS OR BITES; QUARANTINE.

(A) No person shall keep or suffer to be kept on is premises occupied by him or her within the city nor permit to run at large, any dog of a ferocious or vicious disposition or habit. Whenever it shall reasonably appear that any dog has bitten one or more persons or animals, the dog shall be deemed a vicious dog and it shall be lawful for any police officer or ACO to forthwith kill or destroy any such animal.

(B) For the purpose of enforcement of this chapter any peace officer, or Animal Control Officer (ACO), may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal. The tranquilizer gun will be used only in extreme circumstances.

(C) If a dog or cat without provocation, attacks or injures the person or property of any person who is peaceably conducting himself or herself in any place where he or she may lawfully be in any part of the city, the owner of the animal shall be liable for damages to the person so attacked or injured to the full amount of the injury or damage sustained to his or her person or property.

(D) Any animal impounded for biting persons shall be impounded for observation for a minimum of ten days. Animals impounded for biting may be quarantined on the premises of the owner for the ten-day observation period upon certification by a licensed veterinarian that the dog has been inoculated against rabies within the past three years and is otherwise healthy. In instances of home quarantine, the owner shall be responsible for keeping the dog contained within the house, or, if outside, on a chain at all times. The city and/or the ACO shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the event that the animal is a stray or when the owner of the animal is not known, the quarantine shall be at the holding facility or a veterinary hospital.

(E) All expenses of the quarantine period shall be the responsibility of the animal's owner. The animal may be reclaimed by the owner if free of rabies and upon payment of fees as set forth in this chapter an upon compliance with all applicable provisions.

(F) When an animal is under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the ACO shall immediately send the head of the animal and rabies data to the State Health Department for pathological examination and shall notify all persons concerned of the results of such an examination.

(G) It is the duty of every physician and medical practitioner to report to the Chief Law Enforcement Official the names and addresses of persons treated for bites inflicted by animals, together with the other information as will be helpful to rabies control.

(H) It is the duty of every licensed veterinarian to report to the Chief Law Enforcement Official his or her diagnosis of an animal observed by him or her as a rabies suspect.
(Ord. 10.03, passed - -)

§ 92.14 FEMALES IN HEAT.

Except for controlled breeding purposes, every female animal in heat shall be kept confined in a house of secure enclosure, provided by the owner, or in a veterinary hospital or boarding kennel, in the manner that the female animal cannot come in contact with other animals.
(Ord. 10.03, passed - -) Penalty, see § 10.99

§ 92.15 VIOLATIONS.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor.
(Ord. 10.03, passed - -) Penalty, see § 10.99

CHAPTER 93: HEALTH AND SAFETY; NUISANCES

Section

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GENERAL PROVISIONS

§ 93.01 ASSESSABLE CURRENT SERVICES.

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

CURRENT SERVICE. One or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 through 463.26, as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *Snow, ice, dirt, and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by city*. The City Clerk-Treasurer or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk-Treasurer or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *Public health and safety hazards*. When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk-Treasurer.

(D) *Installation and repair of water service lines*. Whenever the city installs or repairs water service lines serving private property under Title V of this code, the City Clerk-Treasurer shall keep a record of the total cost of the installation or repair against the property.

(E) *Repair of sidewalks and alleys*.

(1) *Duty of owner*. The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk-Treasurer.

(2) *Inspections; notice*. The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) *Repair by city*. If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk-Treasurer shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Clerk-Treasurer shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) *Personal liability*. The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk-Treasurer, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk-Treasurer.

(G) *Damage to public property*. Any person driving any vehicle, equipment, object, or contrivance upon any street, road, highway, or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object, or contrivance, but is operating, driving, or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *Assessment*. On or before October 31 of each year, the City Clerk-Treasurer shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of 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 along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.
Penalty, see § 10.99

§ 93.02 TREE DISEASES.

(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; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance*. It is unlawful for any person to permit any public nuisance as defined in division (A) above to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in §§ 93.22 and 93.23.

(C) *Record of costs*. The City 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.

(D) *Unpaid charges*. On or before September 1 of each year, the City Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The 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.
Penalty, see § 10.99

§ 93.03 VIOLATIONS.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first-class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99.

NUISANCES

§ 93.15 PUBLIC NUISANCE.

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 §§ 93.16, 93.17, 93.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.
Penalty, see § 10.99

§ 93.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.
Penalty, see § 10.99

§ 93.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines, and punch boards, except as otherwise authorized 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; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
Penalty, see § 10.99

§ 93.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as it may be amended from time to time, which are hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile, or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than

the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(K) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Waste water cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from accumulation;

(Q) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash of other materials;

(S) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(U) All other conditions or things which are likely to cause injury to the person or property of anyone.

(V) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities*. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements*. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(W) Reflected glare or light from private exterior lighting exceeding one-half footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel; and

(X) Reflected glare or light from private exterior lighting exceeding one-half footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel.
Penalty, see § 10.99

§ 93.19 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance*. The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:

(1) Obstructs views on streets and private property;

(2) Creates cluttered and otherwise unsightly areas;

(3) Prevents the full use of residential streets for residential parking;

(4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;

(5) Decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and

(6) Otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements.

(a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.

(c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
Penalty, see § 10.99

§ 93.20 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011, Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.
Penalty, see § 10.99

§ 93.21 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance*. Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

(1) Are unsightly;

(2) Decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and

(3) Adversely affect property values and neighborhood patterns.

(B) *Standards*. A building, fence or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

(a) Any one wall or other flat surface; or

(b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.
Penalty, see § 10.99

§ 93.22 DUTIES OF CITY OFFICERS.

(A) For purposes of §§ 93.22 and 93.23, the Police Department, or Sheriff or person designated by the City Council under this code, if the city has at the time no Police Department, may enforce the provisions relating to nuisances.

(B) Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

(C) Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in this code.

§ 93.23 ABATEMENT.

(A) *Notice*. Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation*. Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing*. Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order*. Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17, as it may be amended from time to time.

(4) *Notice of motion for summary enforcement*. Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17, as it may be amended from time to time.

(B) *Procedure*. Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement*. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement*. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 10.99

§ 93.24 RECOVERY OF COST.

(A) *Personal liability*. The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk-Treasurer or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk-Treasurer.

(B) *Assessment*. After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.
Penalty, see § 10.99

WEEDS

§ 93.35 SHORT TITLE.

This subchapter shall be cited as the "Weed Ordinance."

§ 93.36 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended, or repealed.

§ 93.37 DEFINITIONS; EXCLUSIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license, or lease.

WEEDS, GRASSES and ***RANK VEGETATION.*** Includes, but is not limited to, the following:

(1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches;

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

(6) The term ***WEEDS*** does not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

§ 93.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 12 inches in height.
Penalty, see § 10.99

§ 93.39 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk-Treasurer. If the city makes the complaint, an employee, officer or Councilmember of the city shall file the complaint in all respects as set out above.

§ 93.40 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk-Treasurer or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) All notices are to be in writing and all filings are to be with the City Clerk-Treasurer. Certified mailing to the City Clerk-Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

§ 93.41 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

§ 93.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk-Treasurer of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property.

§ 93.43 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk-Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

OPEN BURNING

§ 93.55 DEFINITIONS.

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

FIRE CHIEF, FIRE MARSHAL, and ***ASSISTANT FIRE MARSHALS.*** The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a ***RECREATIONAL FIRE*** as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as ***OPEN BURNING***.

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a ***RECREATIONAL FIRE SITE*** using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one ***RECREATIONAL FIRE*** is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a ***RECREATIONAL FIRE SITE*** as defined herein. ***RECREATIONAL FIRE SITES*** shall not be located closer than 25 feet to any structure.

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.

§ 93.56 PROHIBITED MATERIALS.

(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, sheet rock, wiring, paint or paint fillers.

(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.

(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.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.
Penalty, see § 10.99

§ 93.57 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 93.60.
Penalty, see § 10.99

§ 93.58 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of 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; and

(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.

(B) Fire training permits can only issued by the State Department of Natural Resources.
Penalty, see § 10.99

§ 93.59 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal, and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in the ordinance establishing fees and charges, authorized by this code, as it may be amended from time to time.
Penalty, see § 10.99

§ 93.60 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals 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.

§ 93.61 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) 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.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.
Penalty, see § 10.99

§ 93.62 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.
Penalty, see § 10.99

§ 93.63 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

§ 93.64 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.
Penalty, see § 10.99

§ 93.65 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 through 88.22, as they may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

TITLE XI: BUSINESS REGULATIONS

Chapter

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111. TOBACCO REGULATIONS

112. LODGING TAX

113. BUSINESS LICENSING

114. AMUSEMENTS

115. PEDDLERS AND SOLICITORS

CHAPTER 110: LIQUOR REGULATIONS

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GENERAL PROVISIONS

§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.
(Ord. passed 7-25-2006)

§ 110.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.
(Ord. passed 7-25-2006)

§ 110.03 DEFINITIONS.

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter.

LIQUOR. Without modification by the words "intoxicating" or "3.2% malt," includes both intoxicating liquor and 3.2% malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a ***RESTAURANT***, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a "small establishment," "medium establishment," or "large establishment" as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served shall not be considered to be a ***RESTAURANT*** for purposes of this chapter unless it meets the definitions of "small establishment," "medium establishment," or "large establishment."
(Ord. passed 7-25-2006)

§ 110.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operator, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with nontransparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any wine, intoxicating liquor, or 3.2% malt liquor license or the imposition of a civil penalty under the provisions of § 10.99.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk, parking lot, or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.
(Ord. passed 7-25-2006) Penalty, see § 10.99

LICENSING

§ 110.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum

held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.
(Ord. passed 7-25-2006)

§ 110.21 TERMS AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31, of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commission of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.
(Ord. passed 7-25-2006)

§ 110.22 KINDS OF LIQUOR LICENSES.

(A) *Generally*. The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 110.20. The City Council which has a municipal liquor store is authorized to issue only those licenses specified in this chapter.

(B) *Specifically*.

(1) 3.2% malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks;

(2) 3.2% malt liquor off-sale license;

(3) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization;

(4) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drugstores that have an off-sale license which was first issued on or before 5-1-1994. The fee for an off-sale intoxicating liquor license established by the Council under § 110.23 shall not exceed $100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time;

(5) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it maybe amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally-chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of

Public Safety. The fee for club licenses established by the Council under § 110.23 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises;

(6) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 110.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 112.23, shall not exceed $200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time;

(7) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000;

(8) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year;

(9) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 110.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 110.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license;

(10) One-day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization; and

(11) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 110.23 shall not exceed $300, or the maximum amount permitted by M.S. § 340A.414, Subd.6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
(Ord. passed 7-25-2006)

§ 110.23 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the ordinance establishing fees and charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be pro rated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filled with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.
(Ord. passed 7-25-2006)

§ 110.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.
(Ord. passed 7-25-2006)

§ 110.25 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, description of

the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility*. Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.26 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.
(Ord. passed 7-25-2006)

§ 110.27 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.
(Ord. passed 7-25-2006)

§ 110.28 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.29 INVESTIGATION.

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of $500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than $500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be $500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and $10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
(Ord. passed 7-25-2006)

§ 110.30 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.
(Ord. passed 7-25-2006)

§ 110.31 RESTRICTIONS ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible or a license under state law.

(E) No license shall be issued for any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing of the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.32 CONDITIONS OF LICENSE.

(A) *Generally*. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(B) *Specifically*.

(1) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(2) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(3) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(4) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(5) Compliance with financial responsibility requirement of state law and of this chapter is a continuing condition of any license.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.33 HOURS AND DAYS OF SALE.

(A) The hours of operations and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.34 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restraint, hotel, motel, or multipurpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work or consume meals on premises that qualify as a restaurant, or attend social function that are held in a portion of the premises where liquor is not sold.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.36 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 through 14.69, as they may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time.

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of § 110.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) above that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows.

(a) For the first violation within any three-year period, at least one-day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk-Treasurer, a hearing before the Council shall be granted within ten days. Any suspension under this division (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 10.98 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.37 VIOLATIONS.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to $2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 through 14.69, as they may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Nonpayment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

(1) For the first violation within any three-year period: $500;

(2) For the second violation within any three-year period: $1,000; and

(3) For the third and subsequent violations within any three-year period: $2,000.

(C) The term ***VIOLATION***, as used in this section, includes any and all violations of the provision of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the proceeding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.
(Ord. passed 7-25-2006) Penalty, see § 10.99

§ 110.38 FEES AND CHARGES.

The fees and charges for the permits, licenses, and services are listed on the fee schedule attached to the ordinance codified herein.
(Ord. passed 7-25-2006)

CHAPTER 111: TOBACCO REGULATIONS

Section

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§ 111.01 PURPOSE.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices, and to further the official public policy of the state 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. (Ord. passed 7-14-1998)

§ 111.02 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 to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this 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, tobacco products, or tobacco-related devices for educational, research, and training purposes as authorized by state and federal laws. ***COMPLIANCE CHECKS*** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, and tobacco-related devices.

INDIVIDUALLY PACKAGED. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered ***INDIVIDUALLY PACKAGED***. ***CARTONS*** are defined as packaging containing ten or more packages of cigarettes.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of 18 years.

MOVEABLE PLACE OF BUSINESS. Any 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 type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products, or tobacco-related devices are available for sale to the general public. ***RETAIL ESTABLISHMENTS*** shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

SALE. Transfer of goods for money, trade, barter, or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products, lighters, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, lighters, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, lighter, or tobacco-related device between the customer and the licensee or employee. ***SELF-SERVICE MERCHANDISING*** shall not include vending machines.

TOBACCO or ***TOBACCO PRODUCTS.*** Any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobacco; 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 product as well as pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco-related device.
(Ord. passed 7-14-1998)

§ 111.03 LICENSE.

(A) *Generally.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related device without first having obtained a license to do so from the city.

(B) *Application.* An application for a license to sell tobacco, tobacco products, to tobacco-related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk-Treasurer shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk-Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *Action.* The City Council may either approve or deny the license, or it may delay action for the reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk-Treasurer shall issue the license to the applicant. If the City Council denies the license, notice of denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(D) *Term.* All licenses issued under this chapter expire on December 31 of the year for which they are issued.

(E) *Revocation or suspension.* Any licenses issued under this chapter may be revoked or suspended as provided in § 111.14.

(F) *Transfers*. All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

(G) *Movable place of business*. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(H) *Display*. All licenses shall be posted and displayed in plain view of the general public premise.

(I) *Renewals*. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be $25.
(Ord. passed 7-14-1998) (Ord. passed 1-26-1999)

§ 111.05 BASIS FOR DENIAL OF LICENSE.

(A) *Generally*. The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewal to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

(B) *Specifically*.

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past five years of any violation of federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco-related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco-related devices revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from the holding such a license.
(Ord. passed 7-14-1998)

§ 111.06 PROHIBITED SALES.

It shall be violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, lighters, or tobacco-related device:

(A) To any person under the age of 18 years;

(B) By means of any type of vending machine, except as may otherwise be provided in this chapter;

(C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, lighters, or tobacco-related device between the licensee or the licensee's employee, and the customer. Except for the sale of cartons of cigarettes;

(D) By means of loosies as defined in § 111.02; and/or

(E) By any other means, to any other person, on in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.08 SELF-SERVICE SALES.

(A) It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, lighters, or tobacco-related devices by any means where by the customer may have access to the items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, lighters, or the tobacco-related device

between the licensee or his or her clerk and the customer. All tobacco, tobacco products, lighters, or tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unity not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, lighters, or tobacco-related devices at the time this chapter is adopted shall comply with this section within 30 days.

(B) The following are exceptions to this section:

(1) In establishments where minors are, at all times, prohibited; and

(2) In establishments where 90% or more of their revenues are from the sale of tobacco, tobacco products, and tobacco-related devices.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.09 RESPONSIBILITY.

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, lighters, or tobacco-related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the Clerk-Treasurer to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.
(Ord. passed 7-14-1998)

§ 111.10 TRAINING SESSIONS.

All licensees and their employee shall attend training on the problem of underage smoking, when to require identification, how to recognize false identification, and general procedures for conducting sales and dealing with problems that may arise. Training sessions must be certified by the city in order to comply with this section.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.11 SIGNAGE.

All licensed premises are required to post signs indicating it is illegal to sell tobacco, tobacco products, and tobacco-related devices to anyone under the age of 18 years, and that the possession and use of the items by minors is also illegal under both state law and local ordinance. Signs shall be at least eight and one-half inches by 11 inches in size and shall be conspicuously placed.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.12 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when the items are obtained as a part of the compliance check. No minor used in compliance shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all question about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.13 OTHER ILLEGAL ACTS.

(A) *Generally*. Unless otherwise provided, the following acts shall be a violation of this chapter.

(B) *Specifically*.

(1) *Illegal sales*. It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco products, or tobacco-related device to any minor.

(2) *Illegal possession*. It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This division (B)(2) shall not apply to minors lawfully involved in a compliance check.

(3) *Illegal use*. It shall be a violation of this chapter for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.

(4) *Illegal procurement*. It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain the items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This division (B)(4) shall not apply to minors lawfully involved in a compliance check.

(5) *Use of false identification.* It shall be a violation of this chapter 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.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.14 VIOLATIONS.

(A) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(B) *Hearings.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(C) *Hearing officer.* The City Council shall serve as the hearing officer.

(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 under this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty such findings shall be recorded and a copy provided to the acquired accused violator.

(E) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(F) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(G) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(H) *Licensees and employees.* Any licensee, and any employee of a licensee, found to have violated this chapter shall be charged and administrative fine of $100 for a first violation of this chapter; $200 for a second offense at the same licensed premises within a 24-month period; and $300, plus a suspension of not more than seven days, 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 and penalties for additional offenses will increase up to and including revocation.

(I) *Other individuals.* Other individuals, other than minors regulated by division (J) below, found to be in violation of this chapter shall be charged an administrative fee of $100.

(J) *Minors*. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices, shall be referred to the County Juvenile Court.

(K) *Misdemeanor*. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.
(Ord. passed 7-14-1998) Penalty, see § 10.99

§ 111.15 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco-related device 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.
(Ord. passed 7-14-1998)

§ 111.16 EFFECTIVE DATE.

This chapter shall take effect the day following publication in the city's official newspaper.
(Ord. passed 7-14-1998)

CHAPTER 112: LODGING TAX

Section

112.01 Recitals
112.02 Definitions
112.03 Imposition of tax
112.04 Collections
112.05 Exemptions
112.06 Advertising no tax
112.07 Payment and returns
112.08 Examination of return; adjustments; notices and demands
112.09 Refunds
112.10 Failure to file a return
112.11 Violations
112.12 Administration of tax
112.13 Examine records
112.14 Use of proceeds
112.15 Appeals
112.16 Effective date

§ 112.01 RECITALS.

The State Legislature has authorized the imposition of a tax upon lodging at a hotel, motel, rooming house, tourist court, or other use of space by a transient. The City Council finds that the imposition of such a tax would provide funding for a convention and tourism bureau to promote the city as a tourist and convention center.
(Ord. passed 5-10-1994)

§ 112.02 DEFINITIONS.

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

LODGER. The person obtaining lodging from an operator.

LODGING. The furnishing for a consideration of lodging by a hotel, motel, or rooming house except where the lodging shall be for a continuous period of 30 days or more to the same lodger(s). The furnishing of rooms by religious, educational, or nonprofit organizations shall not constitute ***LODGING*** for purposes of this chapter.

MUNICIPALITY. The City of Gilbert, Minnesota.

OPERATOR. A person who provides lodging to others or any officer, agent, or employee of the person.

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

RENT. The total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

TAX ADMINISTRATOR. The person or entity selected by the city to perform the duty of Tax Collector.
(Ord. passed 5-10-1994)

§ 112.03 IMPOSITION OF TAX.

(A) There is hereby imposed a tax of 3% on the rent charged by an operator for providing lodging to any person after 5-15-1994. The tax shall be stated and charged separately and shall be collected by the operator from the lodger.

(B) The tax collected by the operator shall be a debt owed by the operator to the municipality and shall be extinguished only by payment to the municipality. In no case shall the tax be imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this chapter to collect from a lodger.
(Ord. passed 5-10-1994)

§ 112.04 COLLECTIONS.

(A) Each operator shall collect the tax imposed by this chapter at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the municipality.

(B) The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.
(Ord. passed 5-10-1994) Penalty, see § 10.99

§ 112.05 EXEMPTIONS.

An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the municipa1ity to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected and such a claim shall be made in writing and under penalty of perjury on forms provided by the Tax Administrator. All the claims shall be forwarded to the Tax Administrator when the returns and collections are submitted as required by this chapter.
(Ord. passed 5-10-1994)

§ 112.06 ADVERTISING NO TAX.

It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than $.01 shall be considered an additional cent.
(Ord. passed 5-10-1994) Penalty, see § 10.99

§ 112.07 PAYMENT AND RETURNS.

(A) The taxes imposed by this chapter shall be paid by the operator to the Tax Administrator monthly not later than 15 days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon the forms and containing the information as the Tax Administrator may require. The return shall contain the following information:

(1) The total amount of rent collected for lodging during the period covered by the return;

(2) The amount of tax required to be collected and due for the period;

(3) The signature of the person filing the return or that of his or her agent duly authorized in writing;

(4) The period covered by the return; and

(5) The amount of uncollectable rental charges subject to the lodging tax.

(B) The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this chapter previously paid as a result of any transaction the consideration for which became uncollectable during the reporting period, but only in proportion to the portion of the consideration which became uncollectable.
(Ord. passed 5-10-1994)

§ 112.08 EXAMINATION OF RETURN; ADJUSTMENTS; NOTICES AND DEMANDS.

The Tax Administrator shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of the examination shall be the tax to be paid. If the tax due is found to be greater than that paid, the excess shall be paid to the Tax Administrator ten days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the Tax Administrator ten days after determination of the refund.
(Ord. passed 5-10-1994)

§ 112.09 REFUNDS.

Any person may apply to the Tax Administrator for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year after the tax was paid, or within one year from the filing of the return, whichever period is the longer. The Tax Administrator shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the person at the address stated upon the return. If the claim is allowed in whole or in part, the Tax Administrator shall credit the amount of the allowance against any taxes due under this chapter from the claimant and the balance of the allowance, if any, shall be paid by the Tax Administrator to the claimant.
(Ord. passed 5-10-1994)

§ 112.10 FAILURE TO FILE A RETURN.

(A) If any operator required by this chapter to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice and demand, file the return or corrected return within five days of receipt of the written notice and shall at the same time pay any tax due on the basis thereof. If the person shall fail to file the return or corrected return, for the person from knowledge and information as the Tax Administrator can obtain, and assess a tax or the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by the return) shall be paid upon within five

days of the receipt of written notice and demand for the payment. Any such return or assessment made by the Tax Administrator shall be prima facie correct and valid, and the person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

(B) If any portion of a tax imposed by this chapter, including penalties thereon, is not paid within 30 days after it is required to be paid, the prosecuting attorney for the municipality may institute any legal action as may be necessary to recover the amount due plus interest, penalties, and the costs and disbursements of any action.

(C) Upon a showing of good cause, the Tax Administrator may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this chapter, provided that interest during the period of extension shall be added to the taxes due at the rate of 10% per annum.
(Ord. passed 5-10-1994)

§ 112.11 VIOLATIONS.

(A) If any tax imposed by this chapter is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to 10% of the amount remaining unpaid.

(B) In case of any failure to make and file a return within the time prescribed by this chapter, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in addition to the 10% specific penalty provided in division (A) above, 10% if the failure is for not more than 30 days with an additional 5% for each additional 30 days or fraction thereof during which failure continues, not exceeding 25% in the aggregate. If the penalty as computed does not exceed $10, a minimum penalty of $10 shall be assessed. The amount so added to any tax shall be collected at the same time and the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(C) If any person willfully fails to file any return or make any payment required by this chapter, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such a tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50% of any tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this division (C) shall be collected as part of the tax, and shall be in addition to any other penalties provided by this chapter.

(D) All payments received shall be credited first to penalties, next to interest, then to the tax due.

(E) The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the maximum rate per annum as prescribed by M.S. § 270.75, as it may be amended from time to time, from the time the tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

(F) Any person who shall willfully fail to make a return required by this chapter, or who shall fail to pay the tax after the written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this chapter after written demand for the payment or who shall refuse to permit the Tax Administrator or any duly authorized agents or employees to examine the books, records, and papers under his or her control, or who shall willfully make any incomplete, false, or fraudulent return, shall be guilty of a misdemeanor.
(Ord. passed 5-10-1994) Penalty, see § 10.99

§ 112.12 ADMINISTRATION OF TAX.

The Tax Administrator shall administer and enforce the assessment and collection of the taxes imposed by this chapter. The Tax Administrator shall cause to be prepared blank forms for the returns and other documents required by this chapter and shall distribute the same throughout the city and furnish them on application, but failure to receive or secure them shall not relieve any person from any obligation required of him or her under this chapter.
(Ord. passed 5-10-1994)

§ 112.13 EXAMINE RECORDS.

The Tax Administrator and those persons acting on behalf of the Tax Administrator authorized in writing by the Tax Administrator or the municipality may examine the books, papers, and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this chapter. Every operator is directed and required to give to the person authorized to examine the books, papers, and records, the means and facilities and opportunity for the examinations and investigations are hereby authorized.
(Ord. passed 5-10-1994)

§ 112.14 USE OF PROCEEDS.

Five percent of the proceeds obtained from the collection of taxes pursuant to this chapter shall be paid to the Tax Administrator for costs of collection. Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this chapter shall be used in accordance with M.S. § 469.190, as it may be amended from time to time, to provide funding to Iron Trail Convention and Visitors Bureau, or any other tourist or convention center as selected by City Council resolution, for the purpose of marketing and promoting the municipality as a tourist or convention center.
(Ord. passed 5-10-1994)

§ 112.15 APPEALS.

(A) Any operator aggrieved by any notice, order, or determination made by the Tax Administrator under this chapter may file a petition for review of the notice, order, or determination detailing the operator's reason for contesting the notice, order, or determination. The petition shall contain the name of the petitioner, the petitioner's address, and the location of the lodging' subject to the order, notice, or determination.

(B) The petition shall be filed with the Tax Administrator within ten days after the notice, order, or determination for which review is sought has been mailed or served upon the person requesting review.

(C) Upon receipt of the petition, the Tax Administrator shall set a date and time for a meeting with the petitioner and shall give the petitioner at least five-days prior written notice of the date, time, and place cf the meeting.

(D) At the meeting, the petitioner shall be given opportunity to show cause why the notice, order, or determination should be modified or withdrawn. If the meeting does not result in the matter being resolved to the satisfaction of the petitioner, the petitioner may appeal to the City Council.

(E) A petitioner seeking to appeal a decision to the City Council must file a written notice of appeal with the City Council, in care of the City Clerk-Treasurer, within ten days after the Tax Administrator's decision following the division (D) meeting has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as it is practical. At least five days prior to the hearing before the City Council, the tax Administrator shall prepare and serve on the petitioner a memorandum of proposed findings of fact and conclusions of law. A copy of the memorandum shall be presented to the City Council at the time of the appeal hearing. The Council shall then review the proposed findings of fact and conclusions to determine whether they are correct. Upon a determination by the Council that findings and conclusions are incorrect, the Council may modify, reverse, or affirm the decision of the Tax Administrator based upon an application of the sections of this chapter and the evidence presented.
(Ord. passed 5-10-1994)

§ 112.16 EFFECTIVE DATE.

This chapter shall take effect and be enforced from and after its passage, adoption, and publication, but no earlier than 5-15-1994.
(Ord. passed 5-10-1994)

CHAPTER 113: BUSINESS LICENSING

Section

113.01 Definitions
113.02 Applications
113.03 Action on application; transfer; termination; duplicate license
113.04 Fixing license fees
113.05 Carrying or posting
113.06 Responsibility of licensee

§ 113.01 DEFINITIONS.

For the purpose of this chapter, 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 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.

BOND. A corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

BUSINESS. Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this chapter.

LICENSE. A document issued by the city to an applicant permitting him or her to carry on and transact a business.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

LICENSEE. An applicant who, pursuant to his or her application, holds a valid, current, unexpired, and unrevoked license from the city for carrying on a business.

SALE, ***SELL***, and ***SOLD.*** All forms of barter and all manner or means of furnishing merchandise to persons.
(1985 Code, § 6.01)

§ 113.02 APPLICATIONS.

(A) *Generally*. All applications shall be made as follows.

(B) *Specifically*.

(1) All applications shall be made at the office of the City Clerk-Treasurer upon forms that have been furnished by the city for the purposes.

(2) All initial applications shall be accompanied by a payment of a single $5 fee to cover the cost of investigation as herein provided.

(3) All the applications must be subscribed, sworn to, and include, but not be limited to, the following:

(a) Applicant's name, age, and citizenship;

(b) Applicant's present address and length of time he or she has lived at that address;

(c) Applicant's occupation and length of time so engaged;

(d) Applicant's addresses and occupations for the three years last preceding the date of application;

(e) Names and addresses of applicant's employers, if any, for the three years last preceding the date of application;

(f) Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of convict ion and the nature of the offense;

(g) Type of license and location of premises for which application is made;

(h) At least four character references if applicant has not resided in the city for two years last preceding the date of application; and

(i) Any other information as the Council shall deem necessary considering the nature of the business for which license application is made.

(4) 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.

(5) The City Clerk-Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to the extent as he or she deems necessary. For the investigation, the City Clerk-Treasurer may enlist the aid of the Police Chief. The Council shall not consider an application before the investigation has been completed.

(6) Applications for renewal licenses may be made in the abbreviated form as the Council may by resolution adopt.
(1985 Code, § 6.02) Penalty, see § 10.99

§ 113.03 ACTION ON APPLICATION; TRANSFER; TERMINATION; DUPLICATE LICENSE.

(A) *Granting*. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this chapter.

(B) *Issuing*. If an application is approved, the City Clerk-Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the 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 one-half 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.

(C) *Transfer*. A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (C).

(D) *Termination*. Licenses shall terminate only by expiration or revocation.

(E) *Refusal 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.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Clerk-Treasurer, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of $2 for issuance of the duplicate. All duplicate licenses shall be clearly marked "duplicate."
(1985 Code, § 6.03)

§ 113.04 FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. 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 City 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 such subdivision or categorization shall be included in the resolution authorized by this section.
(1985 Code, § 6.04)

§ 113.05 CARRYING OR POSTING.

All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity; provided, however, that in the case of machine or other device licensing, the city may provide a sticker for the current license year which shall be affixed to each machine or device requiring the sticker. All licensees shall display their licenses upon demand by any officer or citizen.
(1985 Code, § 6.05)

§ 113.06 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.
(1985 Code, § 6.06)

CHAPTER 114: AMUSEMENTS

Section

114.01 Dances
114.02 Shows
114.03 Bingo
114.04 Gambling

§ 114.01 DANCES.

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

PUBLIC DANCE. Any dance 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.

(B) *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.

(C) *License fee*. The license fee shall be fixed and determined by the Council at the time the application is approved by it, which fee shall include the cost of any investigation and the fees and expenses of providing attendance of a police officer, or officers.

(D) *Application and license*.

(1) A verified application for a dance license shall be filed with the city and shall specify the names and addresses of the person, persons, committee, or organization that is to hold the dance, time and place thereof, and the area of the dance floor.

(2) All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he or she lives, that he or she 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.

(3) No license shall be granted by the Council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than a legitimate business purpose which adjoins the dancing place, or which may be reached by stairs, elevators, or passageway leading from the dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washrooms or lighting facilities.

(4) Applications may be referred by the Council to the Police Chief for investigation and report prior to being acted upon by the Council.

(5) The Council shall act upon all dance license applications at a regular or special meeting thereof, whether or not it is included in the call or agenda of the meeting.

(6) At least one officer of the law shall be designated by the Police Chief and employed by the city to be present at every public dance during the entire time the dance is being held. For purposes of this division (D)(6), the term ***OFFICER OF THE LAW*** means any person who is a full-time peace officer, part-time peace officer, or person deputized by the Police Chief. In the discretion of the Council or Police Chief, more than one police officer may be required.

(7) 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 cf conducting the dance.

(8) No license shall be issued to any applicant under the age of 18 years.

(E) *Dance regulations.*

(1) *Obscenity and immorality prohibited.* It is unlawful for any person to dance, or for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene, or indecent manner or for any licensee to suffer or permit any person so to act or speak in any public dancing place.

(2) *Illumination.* Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed, or turned low so as to give imperfect illumination is prohibited.

(3) *Certain persons prohibited.* No licensee shall permit any unmarried person under the age of 16 years, unless the unmarried person is accompanied by his or her parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

(4) *Hours of dancing*. No public dance shall be held on Sunday between the hours of 1:00 a.m. and 12:00 p.m. No public dance shall be held on any day between the hours of 1:00 a.m. and 6:00 a.m. (1985 Code, § 6.30) Penalty, see § 10.99

§ 114.02 SHOWS.

(A) *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.

(B) *Exceptions*. No license fee shall be required in the following instances:

(1) Performances presented in the local schools and colleges, under the sponsorship of the schools and colleges, and primarily for the students thereof only;

(2) Performances of athletic, musical, or theatrical events sponsored by local schools or colleges using student talent only; and/or

(3) Any performance or event in, or sponsored by, bona fide local church and nonprofit organizations, provided that the organization shall be incorporated.

(C) *Obscenity prohibited.*

(1) For the purpose of this division (C), 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 performance 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.

PERFORMANCE. Any play, motion picture film, dance, or other exhibition pictured, animated, or live, performed before an audience.

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.

(2) It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly:

(a) Exhibit an obscene performance;

(b) Directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance; or

(c) Directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.

(3) Any prosecution under this division (C) shall include the following elements:

(a) The average person, applying contemporary community standards, would find the performance, taken as a whole, appealing to the prurient interest of the audience;

(b) The performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of obscene performance; and

(c) The performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.
(1985 Code, § 6.31) Penalty, see § 10.99

§ 114.03 BINGO.

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

ACTIVE MEMBER. A member who has paid all his or her dues to the eligible organization, and has been a member of it for at least six months.

BINGO. A game where each player has a card or board for which a consideration has been paid, containing five horizontal rows of spaces, with each row except the central one containing five figures. The central row has four figures with the word "Free" marked in the center space thereof. A player wins a game of bingo by completing any pre-announced combination of spaces or, in the absence of a pre-announcement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal, or diagonal.

BINGO OCCASION. A single gathering or session at which a series of one or more successive bingo games is played.

ELIGIBLE ORGANIZATION. Any fraternal, religious, veterans, or other nonprofit organization which has been in existence for at least three years and has at least 15 active members.

(B) *License required.* It is unlawful to conduct a bingo occasion without a license therefor from the city.

(C) *Application.* Only eligible organizations shall be qualified applicants for a bingo license. Each application for a bingo license shall be approved by the Building Inspector, Police Chief, and Fire Chief before being acted upon by the Council. The Council shall act on each application within 180 days from the date of application, but the license shall not issue until at least 30 days after the date.

(D) *Exception.* The Council may by resolution waive the requirement of a bingo license if it is conducted at a civic celebration for not more than 12 consecutive days, or by an eligible organization that conducts less than five bingo occasions in any calendar year; provided, however, that these exceptions apply only to the licensing provisions of this section. All other provisions apply equally to licensees and excepted non-licensees.

(E) *Conduct of bingo.*

(1) Each licensee shall appoint a Bingo Manager to supervise its bingo occasions. He or she shall give a fidelity bond in the sum of $10,000 in favor of the licensee conditioned on his or her faithful performance; provided, that the Council, by unanimous vote, may waive the bond requirement upon a showing by the proposed Bingo Manager and the licensee that bond is not required to protect the organization.

(2) One or more checkers shall be engaged for each bingo occasion, who shall be active members of the licensee or spouse of the active members. Checkers shall record the number of cards purchased and played in each game prior to the completion thereof and record the prizes awarded to the recorded cards, and certify all the figures recorded as accurate and correct to the best of his or her knowledge.

(3) Additional persons may be engaged for other duties in connection with bingo occasions, but no person shall assist in conducting a bingo occasion who is not an active member of the licensee, or spouse of the member.

(4) No person shall receive more than $20 as compensation for duties in connection with a bingo occasion.

(5) No licensee shall conduct more than 104 bingo occasions each year or two bingo occasions each week without special permission of the Council.

(6) A bingo occasion shall not continue for more than four consecutive hours.

(F) *Bingo on leased premises.*

(1) Any person or eligible organization which leases premises that it owns to two or more licensees for purposes including the conduct of bingo occasions, shall allow no more than four bingo occasions thereon each week.

(2) Any eligible organization, which leases any premises to one or more other eligible organizations for purposes including the conduct of bingo occasions shall use the proceeds of the rental, less reasonable sums for maintenance, furnishings, and other necessary expenses, only for the uses for which bingo profits may be used as set forth herein. Not less than once each year, the lessor shall report to the city the disposition of all receipts which it has received daring the reporting period from the rental of its facilities to other eligible organizations for purposes including the conduct of bingo occasions.

(3) No licensee shall conduct bingo on any leased premises without a written lease for a term of at least equal to the remainder of the term of the bingo license of the lessee. Lease payments shall be at a fixed monthly rate, or rate per bingo occasion, not subject to change during the term of the lease. No lease shall provide that rental payments be based on a percentage of receipts or profits from bingo occasions.

(G) *Prizes.*

(1) Prizes for a single bingo game shall not exceed $100, except prizes for a game of the type commonly known as a "cover-all" game. "Cover-all" prizes may exceed $100, provided that the aggregate value of the prizes for a bingo occasion shall not exceed $500. The aggregate value of prizes for a bingo occasion shall not exceed $2,500, except that in the case of a bingo occasion during which a "cover-all" game is played for a maximum prize of more than $100 but less than $500, the aggregate value of prizes for the bingo occasion shall not exceed $3,000. Merchandise prizes shall be valued at fair market retail value.

(2) Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

(H) *Records.*

(1) Each licensee shall keep records of its gross receipts and profits for each bingo occasion. All deductions from gross receipts for a bingo occasion shall be documented with receipts or other records. The distribution of profits shall be itemized as to payee, amount, and date of payment. Records required by this division (H) shall be preserved for three years.

(2) Gross receipts shall be compared with the checkers' records for the bingo occasion by a person who did not sell cards for the bingo occasion. If a discrepancy exceeding $20 is found between the amount of gross receipts for a bingo occasion as determined by the checkers' records, and the amount of gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the city.

(3) Bingo gross receipts shall be segregated from other revenues of the licensee and placed in a separate account. Each organization shall maintain separate records of its bingo operations. The person who accounts for bingo gross receipts and profits shall not be the same person who accounts for other revenues of the licensee.

(I) *Reports.*

(1) Each licensee shall report monthly to its membership as to its gross receipts from bingo, its profits from bingo, and the distribution of those profits itemized as required herein.

(2) Prior to issuance of its initial license, and annually prior to issuance of renewal licenses thereafter, each licensee shall file with the city copies of the following:

(a) The most recently filed Department of the Treasury, Internal Revenue Service, "Return of Organization Exempt From Income Tax," Form 990, or a comparable form if the organization is required to file the form with the Department of the Treasury;

(b) The most recently filed Department of the Treasury, Internal Revenue Service, "Exempt Organization Business Income Tax," Form 990-T, or a comparable form if the organization is required to file the form with the Department of the Treasury;

(c) The most recently filed State Department of Commerce, "Statement of Bingo Operations." All information contained in this statement shall be true, correct, and complete to the best of the knowledge of the person or persons signing the statement; and

(d) Any lease agreements required by this section.

(3) All bingo records and supporting documents shall be open to inspection by the city upon 24-hours' notice.

(J) *Use of bingo receipts*. No expense shall be incurred or amounts paid in connection with the conduct of bingo, except those reasonably expended for bingo supplies and equipment, prizes, rent, or utilities used during the bingo occasions, bingo license fees, and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion.

(K) *Use of bingo profits*. Profits from any bingo occasion shall be expended only as authorized from a resolution recorded in the official minutes of a regular meeting of the licensee and only for one or more of the following purposes:

(1) Benefitting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(2) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;

(3) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people; and/or

(4) The improving, expanding, maintaining, or repairing of real property owned or leased by the licensee, provided, that this does not include the erection or acquisition of real property, unless the city specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this provision.
(1985 Code, § 6.32) Penalty, see § 10.99

§ 114.04 GAMBLING.

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

ACTIVE MEMBER. A member who has paid all his or her dues to the organization and has been a member of the organization for at least six months.

ELIGIBLE APPLICANT. A fraternal, religious, veterans, or other nonprofit organization which has been in existence for at least three years, has at least 15 active members, and is either a corporation, fund, foundation, trust, or association organized for exclusively scientific, literary, religious, charitable, educational, or artistic purposes, or for the purpose of making contributions to or for the use of the United States of America, the state, or any of its political subdivisions for exclusively public purposes, or for any combination of the above enumerated purposes, if no part of the net income of any such corporation, fund, foundation, trust, or association inures to the benefit of any private member, stockholder, or individual.

GAMBLING DEVICES. Those gambling devices known as "paddlewheels" or "tipboards," "pull-tabs" or "ticket jars," or apparatus used in conducting raffles.

PADDLEWHEEL. A wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

PROFIT. The gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prizes, local licensing fees, taxes, and maintenance costs for the devices.

PULL-TABS or ***TICKET JARS.*** A single folded or banded ticket or a card, the face of which is initially covered, or otherwise hidden from view, to conceal a number or set of numbers or a symbol or set of symbols. A few of the numbers or symbols out of every set of ***PULL-TABS*** (or ***TICKET JARS***) will have been designated in advance and at random as prizewinners. A participant pays a consideration to an operator for the opportunity to obtain a folded or banded ticket or a card, view the numbers or symbols on it and possibly obtain a prizewinning ***PULL-TAB*** (or ***TICKET JAR***).

RAFFLE. A game in which a participant buys a ticket for a chance at a prize with the winner being determined by a random drawing to take place at a location and date printed upon the ticket.

TIPBOARD. A board, placard, or other device measuring at least 12 inches square, marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

(B) *License required.* It is unlawful for any person to operate a gambling device or conduct a raffle without a license therefor from the city.

(C) *Applications.*

(1) Applications for a gambling license must be considered and approved by the Council at a regular meeting.

(2) Only applications made by eligible organizations will be considered for approval by the Counci1.

(3) No application shall be considered until 30 days have elapsed after filing the same with the city.

(4) All applications shall be considered within 180 days after filing the same with the city.

(5) With the application, the applicant shall file a certificate that it owns the premises upon which gambling devices shall be operated and raffles conducted, or in the alternative, a copy of the executed written lease for at least the term of the license for which application is made. The city may

authorize raffles to be conducted by a licensee on premises not owned or leased by the licensee. No lease shall provide for a monetary relationship between receipts or profits from the operation of gambling devices or raffles and the rent to be paid.

(D) *License regulations and restrictions.*

(1) Profits shall be used only for lawful purposes authorized at a regular meeting of the licensee.

(a) For the purpose of this division (D), ***LAWFUL PURPOSE*** means one or more of the following:

1. Benefitting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

2. Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;

3. Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people; or

4. The improving, expanding, maintaining or repairing real property owned or leased by the licensee.

(b) ***LAWFUL PURPOSE*** does not include the erection or acquisition of any real property, unless the Council specifically authorizes the expenditure after finding that the property will be used exclusively for one or more of the purposes specified in this division (D).

(2) All gambling devices and the conduct of raffles shall be under the supervision of a single Gambling Manager designated from and by the active membership of the licensee, provided that the Gambling Manager shall not act as such, or as Bingo Manager, for any other licensee.

(3) The Gambling Manager shall give a fidelity bond in the sum of $10,000 in favor of the licensee conditioned on the faithful performance of his or her duties. Terms of the bond shall provide that notice shall be given in writing to the city not less than 30 days prior to its cancellation. By unanimous vote, the Council may waive the bond requirement by including the waiver provision in the gambling license issued to the licensee.

(4) A licensee shall continue to qualify within the definition of “eligible applicant” during the entire term of the license. Failure on the part of the licensee to so qualify shall be grounds for revocation.

(5) No compensation in excess of $25 a week shall be paid in connection with the operation of a gambling device or the conduct of a raffle by the licensee, except that a licensee may elect to pay a percent of raffle ticket sales to nonprofit organizations selling for the licensee.

(6) No person who is not an active member of the licensee, or its auxiliary, or the spouse or surviving spouse of an active member may participate in the licensee's operation of a gambling device or conduct of a raffle, except that the licensee may utilize non-member nonprofit organizations in raffle ticket sales.

(7) Nothing in this section shall be construed to authorize any use, possession, or operation of:

(a) Any gambling device which is activated by the insertion of a coin or token; or

(b) Any gambling game or device in which the winning numbers, tickets, or chances are in any way determined by the outcome of any athletic contest or sporting event.

(8) The Gambling Manager shall account for all gross receipts, expenses, and profits from gambling devices and raffles, be responsible for the operation thereof, and filing all reports required by this section.

(9) Each licensee shall keep records of its gross receipts, quantity of free plays, if any, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount, and date of payment.

(10) Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues of the licensee including bingo receipts, and placed in a separate account. Each licensee shall have separate records of its gambling operations. The Gambling Manager may be the Bingo Manager for the licensee.

(11) Each licensee shall report monthly to its membership and to the Council its gross receipts, expenses, and profits from gambling devices or raffles, and the distribution of profits itemized as required by this division (D).

(12) Records required by this division (D) shall be preserved for three years and the licensee shall make available the records relating to operation of gambling devices and the conduct of raffles for public inspection at reasonable times and places.

(13) Except as otherwise here in provided, gambling devices shall be operated and raffles conducted by a licensee only upon premises which it owns or leases except that tickets for raffles conducted in accordance with this section may be sold off the premises.

(14) Total prizes from the operation of paddlewheels, tipboards, and pull-tabs (or ticket jars) awarded in any single day in which they are operated shall not exceed $1,000. Total prizes resulting from any single spin of a paddlewheel, or any single seal of a tipboard, each tipboard limited to a single seal, or from a single pull-tab (or ticket jar) shall not exceed $150. Total prizes awarded in any calendar year by any licensee from the operation of paddlewheels, tipboards, and pull-tabs (or ticket jars) and the conduct of raffles shall not exceed $35,000. Merchandise prizes shall be valued at fair market retail value.

(1985 Code, § 6.34) Penalty, see § 10.99

CHAPTER 115: PEDDLERS AND SOLICITORS

Section

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§ 115.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other 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.

§ 115.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms ***PEDDLER, SOLICITOR,*** and ***TRANSIENT MERCHANT*** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of ***PEDDLERS, SOLICITORS,*** and ***TRANSIENT MERCHANTS***, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 115.07. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.

§ 115.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329, as it may be amended from time to time, if the county issues a license for the
activity.

(B) *City license required.* 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 § 115.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

(1) Applicant's full legal name;

(2) All other names under which the applicant conducts business or to which applicant officially answers;

(3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks, and features, and the like);

(4) Full address of applicant's permanent residence;

(5) Telephone number of applicant's permanent residence;

(6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent;

(7) Full address of applicant's regular place of business (if any);

(8) Any and all business related telephone numbers of the applicant;

(9) The type of business for which the applicant is applying for a license;

(10) Whether the applicant is applying for an annual or daily license;

(11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;

(15) Proof of any requested county license;

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;

(17) A general description of the items to be sold or services to be provided;

(18) All additional information deemed necessary by the City Council;

(19) The applicant's driver's license number or other acceptable form of identification; and

(20) The license plate number, registration information, and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee*. All applications for a license under this chapter shall be accompanied by the fee established in the ordinance establishing fees and charges, adopted pursuant to this code, as it may be amended from time to time.

(E) *Procedure*. Upon receipt of the completed application and payment of the license fee, the City 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 City Clerk-Treasurer determines that the application is incomplete, the City Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City 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 City Clerk-Treasurer must issue the license unless there exist grounds for denying the license under § 115.04, in which case the Clerk-Treasurer must deny the license. If the City Clerk-Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the State Court of Appeals for a writ of certiorari.

(F) *Duration*. An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions*.

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
Penalty, see § 10.99

§ 115.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license;

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;

(C) The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(D) The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; and

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

§ 115.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally*. Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Fraud, misrepresentation, or incorrect statements on the application form;

(2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;

(3) Conviction of any offense for which granting of a license could have been denied under § 115.04; and

(4) Violation of any provision of this chapter.

(B) *Multiple persons under one license*. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice*. Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing*. Upon receiving the notice provided in division (C) above, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk-Treasurer within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency*. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) above.

(F) *Appeals*. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
Penalty, see § 10.99

§ 115.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.
Penalty, see § 10.99

§ 115.07 REGISTRATION.

(A) All solicitors, and any person exempt from the licensing requirements of this chapter under § 115.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.

(B) Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.
Penalty, see § 10.99

§ 115.08 PROHIBITED ACTIVITIES.

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any individual or the general public;

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and

(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.
Penalty, see § 10.99

§ 115.09 EXCLUSION BY PLACARD.

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "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.
Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

130.01 Dangerous weapons and articles
130.02 Dangerous trespasses and other acts
130.03 Disorderly conduct
130.04 Furnishing obscene material
130.05 Curfew for minors

§ 130.01 DANGEROUS WEAPONS AND ARTICLES.

(A) *Acts prohibited*. It is unlawful for any person to:

(1) Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another;

(2) Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another;

(3) Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club;

(4) Manufacture, transfer, or possess metal knuckles or a switch blade knife opening automatically;

(5) Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another;

(6) 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 parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or

(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 of the Police Department.

(B) *Exception*. Nothing in division (A) above 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.

(C) *Discharge of firearms and explosives*. It is unlawful for any person to fire or discharge any cannon, gun, pistol, or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a BB gun.

(D) *Exception*. Nothing in division (C) above 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.

(E) *Possession and sale of fireworks*. It is unlawful for any person to sell, possess, or have in possession for the purpose of sale, except as allowed in division (D) above, any firecrackers, sky rockets, or other fireworks.

(F) *Exposure of unused container*. It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges, or latches.

(G) *Use of bow and arrow*. 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 Police Chief, or a bow and arrow range authorized by the Council.
(1985 Code, § 10.02) Penalty, see § 10.99

§ 130.02 DANGEROUS TRESPASSES AND OTHER ACTS.

It is unlawful for any person to:

(A) Smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which “No Smoking” notices have been prominently posted;

(B) Interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or firefighter present at the fire;

(C) Show a false light or signal or interfere with any light, signal, or sign controlling or guiding traffic upon a highway, railway track, or navigable water;

(D) Place an obstruction upon a railroad track;

(E) Expose another or his or her property to an obnoxious or harmful gas, fluid, or substance, with intent to injure, molest, or coerce;

(F) Trespass or permit animals under his or her control to trespass upon a railroad track;

(G) Permit domestic animals or fowls under his or her control to go upon the lands of another within the city;

(H) Interfere unlawfully with any monument, sign, or pointer erected or marked to designate a point of a boundary, line, or a political subdivision, or a tract of land;

(I) Trespass upon the premises of another, and without claim of right refuse to depart therefrom on demand of the lawful possessor;

(J) Occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation;

(K) Enter the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing thereon without the permission of the owner or occupant; or

(L) Without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon the motor vehicle knowing it was taken and is being driven by another without the permission of the owner.
(1985 Code, § 10.06) Penalty, see § 10.99

§ 130.03 DISORDERLY CONDUCT.

(A) *Generally*. 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.

(B) *Specifically*.

(1) Engage in brawling or fighting;

(2) Disturb an assembly or meeting, not unlawful in its character;

(3) Engage in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others;

(4) Willfully and lewdly expose his or her person or the private parts thereof, or procure another to so expose himself or herself, and any open or gross lewdness or lascivious behavior, or any act of public indecency;

(5) Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when the 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;

(6) Urinate or defecate in a place other than:

(a) If on public property then in a plumbing fixture provided for that purpose;

(b) If on the private property of another then in a plumbing fixture provided for that purpose; or

(c) If on private property not owned or controlled by another, then within a building;

(7) 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;

(8) Use a sound amplifier upon streets and public property without prior written permission from the city;

(9) Use a flash or spotlight in a manner so as to annoy or endanger others;

(10) Cause defacement, destruction, or otherwise damage to any premises or any property located thereon;

(11) Strew, scatter, litter, throw, dispose of, or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for the purpose;

(12) Enter any motor vehicle of another without the consent of the owner or operator; or

(13) 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 wife, children, employee or tenant of the owner or occupier.
(1985 Code, § 10.07) Penalty, see § 10.99

§ 130.04 FURNISHING OBSCENE MATERIAL.

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

FURNISH. To sell, give, rent, loan, or otherwise provide.

MATERIAL. Any printed matter, visual representation, or sound recording, and includes, but is not limited to, books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

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. Material which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, or which includes obscenities or explicit 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.

(B) *Unlawful act*. It is unlawful for any person to furnish another person obscene material.

(C) *Prosecution*. Any prosecution under this section shall include the following elements:

(1) The average person, applying contemporary community standards, would find the material, taken as a whole, appealing to the prurient interest of the audience or reader;

(2) The material describes or depicts, in a patently offensive way, sexual conduct included in the definition of obscene; and

(3) The material, taken as a whole, lacks serious literary, artistic, political, or scientific value. (1985 Code, § 10.14) Penalty, see § 10.99

§ 130.05 CURFEW FOR MINORS.

(A) *Purpose*. The curfew for minors established by this section is maintained for four primary reasons:

(1) To protect the public from illegal acts of minors committed during the curfew hours;

(2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;

(3) To protect minors from criminal activity that occurs during the curfew hours; and

(4) To help parents control their minor children.

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

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT, OR REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or ***PRIMARY CUSTODY.*** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school-sanctioned event.

(C) *Hours*.

(1) *Minors under the age of 16 years*. No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years*. No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, or public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot between the hours of 12:00 a.m. and 5:00 a.m. the following day, official city time.

(D) *Effect on control by adult responsible for minor*. Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions*. The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession, or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and

(8) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor*. No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons*. No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian, or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

(H) *Defense*. It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Affirmative defense*. A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.
Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

150. GENERAL PROVISIONS

151. SUBDIVISION REGULATIONS

152. ZONING CODE

CHAPTER 150: GENERAL PROVISIONS

Section

150.01 Permit fees
150.02 Permits and special requirements for moving buildings
150.03 Individual sewage disposal systems
150.04 Violations

§ 150.01 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 City Clerk-Treasurer and uniformly enforced.
(1985 Code, § 4.01)

§ 150.02 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

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

STREET or ***STREETS.*** All streets and highways in the city which are not state trunk highways, county state-aid highways, or county roads.

(B) *Moving permit required and application.*

(1) It is unlawful for any person to move a building on any street without a moving permit from the city.

(2) The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. The application shall also state any municipal utility, street, and public property repairs or alterations that will be required by reason of the movement. Prior to issuance of the permit, the application shall be referred to the Planning and Zoning Commission.

(C) *Permit and fee*. The moving permit shall state the 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.

(1) Fees to be charged shall be separate for each of the following:

(a) A moving permit fee to cover use of streets and route approval; and

(b) 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.

(2) The fee in division (C)(1)(b) above shall be paid in advance.

(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.

(E) *Proof of tax payment*. 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 and special assessments due thereon, and filing written proof of the payment with the city.
(1985 Code, § 4.02) Penalty, see § 10.99

§ 150.03 INDIVIDUAL SEWAGE DISPOSAL SYSTEMS.

(A) *Standards adopted*.

(1) The Individual Sewage Treatment Standards by the State Pollution Control Agency, 6 MCAR 4.8040, as they may be amended from time to time, are hereby adopted by reference as though set forth verbatim herein.

(2) One copy of the document shall be kept in the office of the City Clerk-Treasurer and available for use by the public.

(B) *Unlawful act*. It is unlawful to construct an individual sewage system which does not in all respects comply with the standards adopted by this section.
(1985 Code, § 4.03) Penalty, see § 10.99

§ 150.04 VIOLATIONS.

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. (1985 Code, § 4.99) Penalty, see § 10.99

CHAPTER 151: SUBDIVISION REGULATIONS

Section

151.01 Generally
151.02 Definitions
151.03 Preliminary plat
151.04 Final plat
151.05 Improvements required
151.06 Unusual physical conditions
151.07 Enforcement
151.08 Variances
151.09 Violations

§ 151.01 GENERALLY.

(A) *Purpose*. Land subdivision is the first step in the process of community development. Once land has been divided into streets, blocks, lots, and open spaces, a pattern has been established which determines how well community needs for residence, business, and industry will be met. It also determines, to a great extent, how well the community will be able to handle its traffic circulation problems, how well it will be able to meet the demand for home sites, and how efficiently and economically it will be able to provide the many services that are required. These subdivision regulations are designed to provide for harmonious development of a subdivided area; for a coordinated layout; for the proper arrangement of streets; for adequate and convenient spaces for traffic, utilities, recreation, light, air, and access for firefighting equipment; and for adequate provision of water, drainage, sewer, and other sanitary facilities. These regulations shall not apply to land used only for agricultural purposes.

(B) *Legal authority*. This chapter is enacted pursuant to M.S. § 462.353, as it may be amended from time to time.

(C) *Title*. This chapter shall be known and may be cited and referred to as "Subdivision Regulations (Platting)."

(D) *Short title*. The short title for this chapter shall be the City Subdivision Regulations.

(E) *Application.* Application for approval of a plat, made in writing by the owner or his or her authorized agent, shall accompany the submission of the preliminary plat. The application shall specify the location and area of the tract to be platted; the intent as to the character, type, and use of the subdivided property; the deed restrictions proposed; and the extent and character of improvements to be made by the subdivider.

(F) *Public street grants.* No grant of a public street to the city by deed shall be filed without the approval of the Council by a resolution to that effect.
(1985 Code, § 12.01)

§ 151.02 DEFINITIONS.

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

BLOCK. The distance as measured along a street between intersecting streets from center line to center line; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.

COMMISSION. The City Planning and Zoning Commission.

DRAINAGE COURSE. A watercourse or indenture for the drainage of surface water.

EASEMENT. A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage courses, gas lines, as well as pedestrian walkways and vehicular roadways.

ENGINEER. The City Engineer.

LAKE LEVEL. The mean level of the lake or watercourse into which a property does or will drain as established by the City Engineer.

LOT. A piece or parcel of land occupied or to be occupied by a building or a use, or a unit for the transfer of ownership.

LOT WIDTH. The dimension of a lot from side line to side line as measured at the building setback line.

MAP. A drawing showing one or more parcels of land.

OFFICIAL MAP. A map which designates certain existing and proposed alignment and right-of-way streets, alleys, other public ways, streams, storm water drainage channels and sewers and sanitary sewers, and site of parks, schools, and other public grounds. The map shall have been adopted by ordinance following public hearing procedures and is intended to guide future development in the city as it relates to thoroughfares and community facilities.

OWNER. A person having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PARKS. Areas of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, playfields, and special purpose areas.

PLAT. A map showing a plan for the subdivision of land which is submitted for approval and is intended in final form for recording.

PRIVATE STREET. A purported street, way, or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated street.

PUBLIC WALKWAY. A public way designated for the use of pedestrian traffic.

SANITARY SEWER. A constructed conduit connected with a sewer system for the carrying of liquids and solids, other than storm waters to a sanitary treatment facility.

SETBACK. The building setback distance of a line as measured from the right-of-way or water shoreline.

STORM SEWER. A constructed conduit for carrying surface waters to a drainage course.

STREET. A way set aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one parcel of land.

(1) ***ACCESS DRIVES.*** A street that provides direct access to a limited number of abutting properties.

(2) ***ALLEY.*** A public way which is used primarily for vehicular service access to the backs or to the sides of properties which otherwise abut on streets.

(3) ***ARTERIAL STREETS AND HIGHWAYS.*** Those designed or utilized primarily for high vehicular speeds and/or for heavy volumes of traffic.

(4) ***COLLECTOR STREETS AND HIGHWAYS.*** Those designed or utilized to carry intermediate volumes of traffic from minor streets to arterial streets.

(5) ***LOCAL STREETS.*** Those which are used or will be used primarily for access to abutting properties and which carry limited volumes of traffic.

SUBDIVIDER. Any person commencing proceedings under this chapter to effect a subdivision of land.

SUBDIVISION. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, by platting, conveyance, registered land survey, or other means, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the sale or exchange of parcels between adjoining lot owners, where the sale or exchange does not create additional building sites, shall be exempted. The division of land, regardless of area, if the division or plat provides for the granting or dedicating of a public street. The resubdivision of land heretofore divided or platted into lots, sites, or parcels, where the total area of the land being resubdivided is one acre or more. The division or allocation of land as open space for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities.

SURVEYOR. A duly registered land surveyor employed by the subdivider for the preparation of subdivision surveys or plats as required by this chapter and state statute, and in accordance with this code and state law.
(1985 Code, § 12.02)

§ 151.03 PRELIMINARY PLAT.

(A) *Preliminary plat detail*. The subdivider shall submit four blueprint copies of a preliminary plan of the proposed plat. The blueprint sheets shall be 22 inches by 30 inches or multiples thereof. The plan shall be drawn to a scale not less than one inch equals 100 feet of horizontal measurement, nor less than one inch equals 20 feet of vertical measurement.

(B) *Preliminary plat standards*. The preliminary plan shall meet the standards of design as set forth in § 151.05 and shall show:

(1) The name and address of the owner, the engineer or surveyor, and the owners of properties within 300 feet of the proposed subdivision;

(2) The name of the plat, its location, nor th point, acreage, scale, and date of completion of the plan;

(3) Courses, distances, and angles of plat boundary lines, and abutting boundary lines of adjacent tracts and subdivisions, as well as ownership lines and structures within the tract;

(4) Bodies of water, watercourses, swamps, wooded tracts, rock outcrops, and other important natural features within the tract;

(5) Five-foot contours within the proposed tract;

(6) The elevation datum used and the benchmarks from which the elevations were determined;

(7) Existing streets, alleys, and public easements, together with the names and dimension of each, within the tract and adjacent and contiguous thereto;

(8) Names and dimensions of proposed streets, alleys, and easements for parks and other public uses, including any proposed conditions for and restrictions upon those uses;

(9) Approximate dimensions of lots and blocks and radii of street-line curves;

(10) Proposed locations of monuments;

(11) Zoning district boundary lines and proposed use of all lots within the tract, including proposed setback lines and private restrictions;

(12) Existing sewer and water mains within and in the vicinity of the plat;

(13) Existing and proposed culverts and drainage;

(14) Preliminary plan of proposed water mains, sanitary sewers, and storm sewers, including grade lines and sizes of pipe, if the utilities are required or proposed as well as the proposed method of sewage disposal and sources of water supply;

(15) Existing lines of transportation and communication (railroad or bus lines, and the like) within and adjacent to the plat;

(16) A vicinity map, to a scale of about 400 feet to the inch, showing the relationship of the location of the proposed plat to the surrounding property occupancy, street and highway improvements, communication lines, utilities, and other major community features;

(17) The Planning and Zoning Commission may also require on preliminary plats:

(a) Profiles showing existing ground surface and proposed street grades within the plat area and to a reasonable distance beyond the plat boundaries;

(b) Typical street cross-sections showing the proposed grading, roadway, and sidewalks; and

(c) Invert elevations of proposed sewers at points of connection.

(18) All plans and data shall be signed by a duly authorized person; and

(19) The Planning and Zoning Commission may waive any of divisions (B)(1) through (B)(18) above as are not necessary, in its opinion, for a proper determination of the features, arrangement, and required improvements within the plat.

(C) *Preliminary plat procedures.*

(1) Prior to submittal of the preliminary plat, in the case of any proposed plat which includes lands abutting upon any existing or established trunk highway or proposed highway which has been designated by a center line order found in the office of the County Recorder, the plat shall first be presented to the State Commissioner of Highways for his or her written comments and recommendations. Where any plat includes land abutting upon an existing or established county or county state-aid highway, the plat shall be submitted to the County Engineer for his or her written comments and recommendations. The State Commissioner of Highways or the County Engineer shall submit written comments to the city in accordance with state law. In requesting the comments of the State Commissioner of Highways and the County Engineer, the subdivider shall include a written statement describing the outlet for and means of disposal of surface waters in the proposed platted area.

(2) Four copies of the preliminary plat and supplementary material specified shall be submitted to the City Clerk-Treasurer for filing with a written application for conditional approval.

(3) The City Clerk-Treasurer shall, upon receipt of a preliminary plat, retain one copy, refer one copy to the Zoning Administrator, and refer two copies to the Planner or Planning and Zoning Commission and Engineer for review as to completeness of information. If found to be incomplete, the application will be returned to the developer. All inconsistent plats within shorelands areas shall be submitted to the Department of Natural Resources at least ten days prior to public hearings to consider these plats.

(4) Upon review by all agencies and city organizations, the copy of the plat, together with all comments and suggested revisions, shall be referred to the Planning and Zoning Commission for a public hearing. The preliminary plat shall receive the approval of the Planner and Engineer as to their respective technical considerations prior to consideration by the Planning and Zoning Commission.

(5) The city shall notify the subdivider by certified mail of the time and place of the public hearing not less than five days before the date fixed for the hearing. Similar notice shall be mailed to the owners of the land within 300 feet adjoining the area to be subdivided as shown on the preliminary plat.

(6) Within 60 days after the hearing on the preliminary plat, the Planning and Zoning Commission shall recommend approval, disapproval, or approval subject to conditions of the plat to the Council. Failure of the Planning and Zoning Commission to act on this preliminary plat within 60 days shall be deemed a recommendation of approval of the plat. If a plat is recommended for disapproval, reasons for the disapproval must be stated in writing. If approval subject to conditions is recommended, the nature of the required conditions shall be indicated in writing. The Planning and Zoning Commission shall then forward the preliminary plat together with its recommendations to the Council for final action.

The final action of the Council shall be noted on two copies of the preliminary plat with any notations made at the time of approval, disapproval of the specific changes required. One copy shall be returned to the subdivider and the other placed on file in the office of the City Clerk-Treasurer.

(7) Approval of the preliminary plat shall not constitute acceptance of the final plat. The approval of the preliminary plat shall lapse unless a final plat based thereon is submitted within six months from the date of the approval. An extension of time may be applied for by the subdivider and granted by the Council.

(8) Whenever part of a tract is proposed to be subdivided and it is intended to subdivide additional parts of the tract in the future, a sketch plan for the entire tract showing the proposed platting arrangement shall be submitted to the Planning and Zoning Commission at the time the preliminary plat for the first part of the tract to be platted is submitted.

(9) A filing fee will be charged at the time of filing the preliminary plat to offset administrative costs in processing the application. This fee will be assessed once for each preliminary plat application submitted; no additional fee will be charged for filing a final plat. The fee will be computed on the basis of a minimum fee of $25, plus $1 for each lot, with a maximum fee of $150.
(1985 Code, § 12.03) Penalty, see § 10.99

§ 151.04 FINAL PLAT.

(A) *Plats*. After approval of preliminary plans, the subdivider or his or her authorized agent shall submit six copies of the final plat printed on cloth, 22 inches by 30 inches, and this cloth mounted on heavy cloth, also three copies on single-thickness heavy cloth. The plan shall be drawn to a scale not less than one inch equals 100 feet. Where more than one sheet is needed to show the entire plat, there shall be a key sheet of the same size and materials which shall show the entire plat and the area covered in each of the larger-scale sheets. A two-inch marginal space shall be provided on the left side of each sheet for binding purposes. The final plat shall show:

(1) The name of the plat, its location, north point, acreage, scale, and date of completion;

(2) Courses, distances, and angles of plat lines;

(3) Bodies of water, watercourses, swamps, rock outcrops, and other important natural features within the tract;

(4) Locations, names, and dimensions of streets, alleys, and easements for park and other public uses, including the conditions for and restrictions upon the public use of the easements;

(5) Angles in street lines and between street lines and plat boundary lines;

(6) Radii of street-line curves;

(7) Dimensions of lots;

(8) Building line easements;

(9) Location and description of monuments;

(10) Five-foot contours of the plat; and

(11) The elevation datum used and a description of the benchmarks from which the elevations were determined.

(B) *Certifications*. The final plat sheets and plans shall bear the certification of the surveyor to the correctness of the surveys, survey measurements, and field data shown; the correctness of the engineer to the correctness of the grades and details of the street and utility improvement plans shown; and the certification of the owner, to the easement dedications offered, the land ownership, and his or her knowledge and approval of the representations certified to by his or her authorized agents.

(C) *Dedications*. All deeds for easements shall be in the form approved by the City Attorney.

(D) *Procedure*.

(1) Within 60 days after the submittal of the final plat, the Planning and Zoning Commission shall recommend approval or disapproval of the plat. Failure of the Planning and Zoning Commission to act upon this final plat within 60 days shall be deemed a recommendation of approval of the plat. If plat disapproval is recommended, the grounds for disapproval shall be stated in the records of the Planning and Zoning Commission.

(a) A plat shall not be recommended for approval unless it:

1. Conforms to the preliminary plat;

2. Conforms to the design standards set forth in this chapter;

3. Conforms to the adopted Comprehensive Plan; and

4. Is in accordance with all requirements and laws of the state.

(b) The Planning and Zoning Commission shall then forward the plat, together with its recommendations, to the Council for final action. A copy of the final plat should be submitted to the Department of Natural Resources within ten days after final approval by the city.

(2) It is the intent of this chapter that a paper copy of the final plat go to the Planning and Zoning Commission and City Engineer for review and to the Council for action. When the paper print of the final plat has been approved by the Council, the developer shall then cause the required mylar or cloth and paper prints to be made with the approval of the city certified thereon, and distributed according to state statute.

(3) When the final acceptance and approval of the plat has been made and the final plat sheets are so certified and have been recorded with the County Recorder, the completed plat sheets shall be distributed as follows: the six cloth-on-cloth copies to be distributed; three to the County Recorder; one each to the County Auditor's office; and two copies to the city.

(4) Upon approval of the final plat, the subdivider shall record it with the County Recorder within 90 days in the manner specified by state law. Otherwise, the approval shall become void unless a request for extension has been made in writing and approved by the Council.
(1985 Code, § 12.04) Penalty, see § 10.99

§ 151.05 IMPROVEMENTS REQUIRED.

(A) *Generally*.

(1) The developer shall provide the following improvements before approval of a plat; or shall provide the necessary funds in escrow; or shall provide a performance bond in an amount necessary to ensure compliance with the installation of improvements as herein required; provided, however, that the Council may also accept petitions for the improvements to be installed on a special assessment basis. All of the improvements required in this section shall be constructed only after the plans and specifications thereof have been approved by the city.

(2) The plat shall conform to the Official Map and other parts of the adopted City Guide Plan.

(B) *Official Map*. Whenever a tract to be subdivided embraces any part of an arterial or collector street or highway, so designated on the Official Map, that part shall be platted by the subdivider in the location and at the width indicated on the plan.

(C) *Land subject to poor drainage*. Any subdivision may be approved or denied, however, upon the recommendations of the City Engineer, which is subject to poor drainage, if improvements to the area will make it safe for residential occupancy, and not significantly interfere with drainage patterns as they affect properties in the drainage area.

(D) *Community assets*. In all subdivisions, due regard shall be shown for natural features such as trees, unusual rock formations, and watercourses; if preserved, will add attractiveness and value to the subdivision and to the community. The Planning and Zoning Commission may prepare a list of all the features within its area of subdivision jurisdiction which it deems worthy of preservation.

(E) *Monuments and stakes*. All subdivision boundary corners, block and lot corners, street intersection corners, and points of tangency and curvature shall be marked with survey monuments consisting of minimum five-eighths inch steel rods, 24 inches in length. Inscribed on the monument or cap, according to state statute, shall be the registration number of the land surveyor making the survey. All federal, state, county, and other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.

(F) *Public sites and open spaces*.

(1) In subdividing land or resubdividing an existing plat, due consideration shall be given by the subdivider, and by the Planning and Zoning Commission upon review, to the dedication or reservation of suitable sites for schools, conservation areas, or other public or semi-public recreational areas, open spaces, or parks.

(2) The subdivider shall dedicate no less than 8% of the total gross area being subdivided for public parks, recreation areas, or open spaces as designated by the Guide Plan, the Planning and Zoning Commission, or the Council.

(G) *Streets*. The following requirements are applicable to all subdivisions within the city.

(1) The subdivision shall be so designed as to be in harmony with adjacent subdivisions, and provide for the continuation of existing streets. Provisions shall be made for streets through the subdivision for the platting of contiguous property. No strip of unplatted land or portion of street or artifice shall be used or retained by the subdivider to impede the platting of adjacent parcels.

(2) Where appropriate to the design, streets shall be established to avoid jogs at intersections and to promote continuity of local streets and those of higher classifications. Street jogs with center-line offsets of less than 125 feet shall be discouraged.

(3) Streets shall be established to take advantage of the contour of the land so as to produce usable lots, cause a minimum of cutting and filling, and to produce streets with reasonable grades as defined in this chapter.

(4) Streets shall intersect at right angles wherever practicable. Angles less than 45 degrees shall be avoided unless specifically approved by the Commission.

(5) On major and secondary streets, the center-line radius of curvature shall not be less than 350 feet on minor and local streets and not less than 100 feet.

(6) Half-wide streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Where an existing, half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full-width street may be required.

(7) Dead-end streets will be approved if limited to 500 feet in length, provided a permanently designed turn-around area having a minimum diameter to the edge of the finished street or curb line of not less than 50 feet and a minimum right-of-way diameter of 70 feet is constructed.

(H) *Street names*. Proposed streets that are to be the direct extensions or continuations of existing adjacent streets shall be given the same names as such existing streets. The name of the proposed street shall not duplicate the name of an existing street to which it does not connect, nor will it be confused with existing similar names.

(I) *Alleys and easements*. Alleys, where provided, shall be not less than 20 feet in width. Alleys may be required for property fronting on a parkway or major street, or for commercial or industrial property that should have off-street parking or loading service. Where alleys intersect at an angle approximately 90 degrees or less, a five-foot cut-off shall be provided. Where no alleys are provided, easement may be required, not to exceed six feet on each side of the lot line, for sewer, water, gas, and other public or semi-public utilities. Utility easements may be required across platted lots, if necessary for the proper provision of continuous routes for the utilities.

(J) *Blocks*.

(1) In commercial and industrial areas, the block lengths and block widths shall be platted as may be determined to be most suitable for the kind of occupancy intended. In residential areas, blocks shall be not less than 500 feet nor more than 1,320 feet in length. Long blocks are especially desirable on major streets; the number of intersections is thereby reduced.

(2) Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs. Where residential blocks with lots deeper than 200 feet are proposed, a reservation for a future street through the middle of the block, longitudinally, may be required.

(3) Pedestrian crosswalks, not less than ten feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

(4) The number of intersecting streets along arterial and collector streets shall be held to a minimum, and, where practicable, blocks along the trafficways shall not be less than 800 feet in length.

(K) *Minimum widths for streets and alley right-of-way.*

(1) For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the Guide Plan and, where not shown therein, the minimum right-of-way width for streets, arterial highways, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

Classification	***Minimum***
Principal arterial highway	80 to 104 feet
Minor arterial highway	80 feet
Collector streets	66 feet
Local streets	50 feet
Service drives	30 feet
Alley	20 feet
Pedestrianway	10 feet

(2) Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths of rights-of-way, these shall be required.

(L) *Minimum pavement widths and surface type.* The following requirements are applicable to all subdivisions within the jurisdiction of these regulations.

(1) Local streets and dead-end streets shall have minimum widths of 32 feet. Where curb and gutter is required, the total width, face to face of curb, shall be 33 feet. The pavement of a turning circle at the end of a dead-end street shall have a minimum finished outside diameter of 50 feet.

(2) The subdivider shall, after grading streets and after sewer and water mains are in, construct a minimum of a six-inch compacted gravel to the designated pavement width. The grading and graveling of the street includes installation of culverts necessary for over the ground drainage until curb and gutter is installed.

(3) Streets shall be graded full pavement width and fully constructed with a concrete pavement of a minimum thickness of six inches or of asphaltic concrete of a minimum thickness of two inches mat and eight inches base, or of a construction standard and material approved by the City Engineer, in writing. If the classification of the street justifies the construction of a thicker section, the additional cost thereof shall be borne by the city, the county, or the State Highway Department, depending upon the agency having jurisdiction.

(4) The subdivider shall, within one year, provide for the construction of curb and gutter within the confines of the platted area; provided, however, that the Council may extend this period where unusual drainage problems exist and the drainage cannot be installed prior to or with the curb and gutter construction.

(M) *Street grade, curves, and sight distances.*

(1) The grades in all streets, arterial highways, collector streets, minor streets, and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Classification	***Grade***
Principal arterial highway	6%
Minor arterial highway	6%
Collector street	6%
Local street	8%
Alley	8%
Pedestrianway	20% (may be increased if steps of an acceptable design are provided)

(2) All changes in street grade of 1% or more shall be connected by vertical curves. The length of the vertical curve will be determined on the basis of providing stopping sight distances for each road classification where design speed for arterial and collector streets is 40 mph and local streets is 25 mph. In no case shall the length of the required vertical curve be less than 15 times the algebraic difference in rate of grades for arterial and collector streets or one-half of this minimum for all other streets.

(3) In no case shall the radius of curvature for arterial and collector streets be less than 300 feet or for local streets, service drives, and alleys be less than 100 feet.

(4) At a street intersection, the street curb intersection shall be rounded by a radius of at least 15 feet.

(5) Intersections shall be designed so as to avoid abrupt changes in longitudinal or transverse slope.

(N) *Lots.*

(1) The size, shape, and orientation of lots shall be appropr iate for the location of the proposed subdivision and for the type of development contemplated. Lot dimensions shall conform to the requirements of Chapter 152.

(2) Excessive depth in relation to widths shall be avoided. A proportion of not more than three to one normally shall be considered appropriate.

(3) Every lot shall abut on a street. Lots for residential purposes shall meet the size requirements of Chapter 152 and also the requirements relative to building setback and side yard requirements.

(4) Residential lots fronting on arterial and collector streets should have extra depths to permit deep setbacks for the buildings.

(5) Through lots or double-frontage lots shall be avoided as far as practicable.

(6) Side lot lines shall be approximately at right angles to the right-of-way line of the street on which the lot frames. Narrow, triangular lots, unusual shapes, and lots not permitting at least a 26-foot width house with side yards and driveways; rear years and front yards are prohibited. No plat will be accepted that contains lots undesirable for building, property subject to recurrent flooding, property at grades greater than 8%, or other factors that may cause the property to be returned for property taxes.

(O) *Utilities and drainage*.

(1) *Water lines*. Where an approved public water supply is within reasonable access to the subdivision as determined by the number of lots, distance from and capacity of existing mains, water lines shall be placed within the right-of-way of each street. Water lines shall have a minimum diameter of six feet. Fire hydrants shall be installed at intervals of not less than 400 feet. The minimum size water main shall be six inches in diameter and all water mains shall be looped so that water is available from two directions to any point. Water mains, fire hydrants, gate valves, and appurtenances shall be installed in accordance with acceptable engineering practices. In general, in new residential areas, water main services with a shutoff shall be installed to appropriate public recreational areas in conjunction with the water main construction.

(2) *Sanitary sewers*. Sanitary sewers shall be constructed in accordance with the standards of the city and each lot shall be provided with a connection to a sanitary sewer. The city may accept an area for platting where the service cannot be provided when the lots are of sufficient size and the soil is suitable for private disposal systems in accordance with the city, the county, and the State Health Department recommendations. No private disposal systems shall be interconnected or run to a common private or public drain. The minimum size public sanitary sewer shall be eight inches in diameter. In general, in new residential areas, sanitary sewer services shall be installed to appropriate public recreational areas in conjunction with the sewer construction. Sewage lift stations will be constructed if necessary to serve an area, provided a lift station will be constructed on an assessment basis to serve an area only if at least 50% of the cost is immediately assessable. The lift station cost beyond the 50% and the pro rated immediately assessable will be held for future assessment to the future area to be served.

(3) *Storm drainage*. All necessary facilities, including underground pipe, manholes, inlets, catch basins, and other appurtenances necessary to provide adequate drainage for the property or to maintain any natural drainage course, shall be the responsibility of the developer. Open drainage will not be allowed unless specifically directed by the City Engineer. Platting of property is prohibited unless it is possible to drain the property by gravity drainage to the natural drainage course for the area. As a minimum, no property plat will be accepted unless street grades are at least five feet above lake level and lots are of the elevation as to drain into the streets. The meeting of this minimum requirement does not obligate the Council to accept the plat if there are substantial obstructions to the drainage of the property contained therein, and the Council may require that the subdivider install pumping facilities for storm drainage prior to plat acceptance if the facilities are necessary.

(4) *Extensions not in platted area*. In some cases the proposed area to be platted will not be served at its borders by water mains or sanitary sewer. The Council may require a petition for the creation of an assessment district to extend the facilities to the platted area; or may require the subdivider to pay the cost of the extension; or may accept the plat with a separate water or sewer system; or may pay the cost thereof and hold the amount for future assessment; or may refuse acceptance of the plat.

(5) *Building permit*. No building permit shall be issued in the platted area until sewer and water mains are designed, approved, and the contract for installation awarded with a satisfactory completion date. No building shall be occupied in the platted area until provided with sanitary sewer and water service and until the street is graveled and the graveling accepted as adequate by the City Engineer to serve the building. The occupancy of a building in violation of this section shall not relieve the subdivider of any responsibility for street improvement. The transfer of property in the plat from the original subdivider to other parties shall not relieve the subdivider of his or her responsibility for initial street work as defined herein.

(6) *Design or improvements*. The City Engineer will design only the improvements to be installed by the city. A subdivider desiring to contract and install his or her own improvements shall do so in accordance with city specifications and practice. The City Engineer will approve or disapprove all plans, specifications, and installation in the public street and for improvements installed by the subdivider shall furnish a written statement to the subdivider of city acceptance of the improvement or street as a part of the city system.

(7) *Sidewalks*. Sidewalks at least five feet wide, constructed of concrete pavement with a minimum thickness of four inches shall be constructed on both sides of every street where the average width of lots is less than 60 feet. Sidewalks shall be constructed on one or both sides of streets irrespective of the width of lots where, in the opinion of the Commission, these are necessary to protect the safety of pedestrians.

(8) *Driveways*. The subdivider shall install driveways, driveway approaches, and curb returns for each connection to the street.

(9) *Planting*. The installation of trees and shrubs to form a tight screen effective at all times shall be required along the rear line of any lot in the subdivision which backs onto an arterial or collector street.

(10) *Street name signs*. Reflectorized street name signs shall be provided at all street intersections or where a change or direction of a street requires a change of street name. The signs shall be of the size and type approved for use by the city. Normally, one sign will be required at each residential intersection; however, more may be required dependent upon the character and/or width of the streets.

(P) *Easements*. The following standards and requirements shall apply for all plats where easements are necessary.

(1) An easement for utilities, at least six feet wide, shall be provided along each side of a side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way, at least 12 feet in width. The easements are to be dedicated and provide for utility service from street to street. The intent of the easements is to furnish overhead wire utility service from the rear of the lots to buildings. If necessary for the extension of main water or sewer lines, electrical transformer pads or similar utilities, easements of greater width may be required along lot lines or across lots.

(2) Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

(3) Where subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement, drainage right-of-way, or park dedication, the width of the easements shall be determined by the Planning and Zoning Commission.

(4) All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, cable television, and services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground; unless the Council specifically shall find, after study and recommendation by the Planning and Zoning Commission, that: the placing of utilities underground would not be compatible with the development planned; the additional cost of burying the utilities would create an undue financial hardship; or topographical, soil, or any other conditions make the underground installation unreasonable or impractical.

(5) All drainage and other underground installations which traverse privately owned property shall be protected by easements.
(1985 Code, § 12.05) Penalty, see § 10.99

§ 151.06 UNUSUAL PHYSICAL CONDITIONS.

In any particular case where the subdivider can show that, by reason of exceptional topographic or other physical conditions, strict compliance with any requirement of this chapter would cause unusual difficulty or exceptional and undue hardship, the Council may relax the requirement or hardship, provided that the relief may be granted without detriment to the public good and without impairing the intents and purposes of these regulations or the desirable development of the neighborhood and the community in accordance with the Plan and Chapter 152. Any modification thus granted shall be entered in the minutes of the Council setting forth the reasons which, in the opinion of the Council, justified the modification. However, designated shorelands areas as identified in Chapter 152 shall be subject to the following: no land shall be subdivided which is held unsuitable by the city for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosions potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community.
(1985 Code, § 12.06) Penalty, see § 10.99

§ 151.07 ENFORCEMENT.

(A) No plat of any subdivision shall be entitled to be recorded in the office of the County Recorder or shall have any validity until it has been approved by the Council in the manner described herein.

(B) It is unlawful for the owner or the agent of the owner to transfer or sell any land by reference to or by other use of a plat or description unless the plat has been approved by the Council as required herein.
(1985 Code, § 12.07) Penalty, see § 10.99

§ 151.08 VARIANCES.

(A) The Council may grant a variance from these regulations following a finding that all of the following conditions exist:

(1) There are special circumstances or conditions affecting the property so that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(B) In making this finding, the Council shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. In granting a variance as herein provided, the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

(C) Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning and Zoning Commission and Council, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans, or other additional data which may aid the Planning and Zoning Commission and Council in the analysis of the proposed project. The plans for the development shall include any covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the Plan. In all cases where applications for variance are submitted for approval along with the preliminary plat, the action on the approval shall issue from the Council.
(1985 Code, § 12.08)

§ 151.09 VIOLATIONS.

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.
(1985 Code, § 12.99) Penalty, see § 10.99

CHAPTER 152: ZONING CODE

Section

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GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall be known as "Land Use Regulations (Zoning)," and shall be referred to herein as "this chapter."
(1985 Code, § 11.01)

§ 152.002 SCOPE AND INTERPRETATION.

(A) *Scope*. From and after the effective date of this chapter, the use of all land and every building, and the erection or structural alteration of any building or portion of a building in the city, shall be in conformity with the provisions of this chapter. Any structure or use lawfully existing at the passage of this chapter but not in conformity with the regulations of the appropriate zoning district may be continued subject to the regulations of §§ 152.085 through 152.092.

(B) *Interpretation*. The provisions of this chapter shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other code provision, or regulation, this chapter shall apply. Where the provisions of any statute, other code provision, or regulation impose greater restrictions than this chapter, the restrictions shall apply.
(1985 Code, § 11.02)

§ 152.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For the purpose of this chapter, words in the present tense shall include the future; the word ***BUILDING*** shall include the word ***STRUCTURE***; and the word ***LOT*** shall include the word ***PLOT***.

ACCESSORY USE. A use or structure subordinate to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal use or structure.

APARTMENT. A room or suite of rooms in a multi-family or multi-use building arranged and intended as a place of residence for a single family or a group of individuals living together as a single housekeeping unit.

APARTMENT BUILDING. Three or more dwelling units grouped in one building.

BASEMENT. A portion of a building located partly underground but housing less than half its clear floor to ceiling height below grade.

BLOCK. A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage, or boundary lines of the corporate limits of the city.

BOARDING HOUSE. Any dwelling, other than a hotel or motel, where meals or lodging and meals for compensation are provided for five or more persons pursuant to previous arrangements.

BUILDING. Any structure for the shelter, support, or enclosure of persons, animals, chattel, or property of any kind; and when separated by bearing walls without openings, each portion of the building so separated shall be deemed a separate building.

BUILDING HEIGHT. The vertical distance from the average of the lowest and the highest point of that portion of the lot covered by the building to the highest point of the roof, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

CLINIC. An establishment where patients who are not lodged overnight are admitted for examination treatment by a group of physicians, dentists, or both practicing together.

CONVENIENCE OR ESSENTIAL RETAIL. Refers to the sale of relatively small quantities of commodities and services directly to customers.

DISTRICT. Any section of the city within which the provisions of this chapter are uniform.

DWELLING, MOBILE HOME. Manufactured transportable housing designed with under-carriage wheels and towing device, and intended for occupancy as a complete year-round single-family dwelling unit upon arrival and placement on a site, with or without a permanent foundation designed to support the transportable unit. For purposes of this chapter, the term shall include all the transportable housing 29 feet or more in length, 16 feet or more in width, and 5,000 pounds or more in weight, containing the same water supply, waste disposal, and electrical convenience as immobile housing. The term shall include transportable housing subject to tax or registration as required under the provisions of M.S. Ch. 168 or M.S. Ch. 273, as they may be amended from time to time.

DWELLING, MODULAR HOME. A single-family dwelling suitable for year-round occupancy, which consists of more than one module either partially or wholly factory-fabricated and containing a framework which does not contain wheels or towing tongue. When transported to a building site, it will be placed on a permanent foundation so as to be substantially affixed to the site and connected to a water supply, waste disposal system, and electrical supply, thereby making it immobile housing.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

DWELLING, TWO-FAMILY. A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

FAMILY. Any number of individuals living together on the premises as a single nonprofit housekeeping unit (except for necessary servants) as distinguished from a group occupying a boarding house, lodging house, hotel, club, or fraternity or sorority house.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building, measured from the exterior walls, including basements and attached accessory buildings.

GARAGE, PRIVATE. An accessory building or one attached to or part of a principal building, designed or used for the storage of not more than three motor-driven vehicles.

GARAGE, PUBLIC. Any premises, except those defined as a private garage, used for storage or care of self-propelled vehicles and/or where any such vehicles are equipped for operation or repair, or are kept for remuneration, hire, or sale.

GRADE.

(1) For buildings more than five feet from any street line, the average level of the finished surface adjacent to the exterior walls of the building.

(2) For building having one or more exterior walls within five feet of a street line or lines, the average of the elevations of the sidewalk or sidewalks, or their equivalent established ground surface, adjacent to the street line or lines.

HOME OCCUPATION. Any use customarily conducted entirely within a dwelling and carried on by members of a family residing therein, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof. Clinics, hospitals, mortuaries, motor vehicle repairing for hire, welding, animal hospitals, and the maintenance of animals shall not be deemed to be home occupations.

HOTEL. Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in individual dwelling units.

JUNK YARD. Land or buildings where waste, discarded, or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other machinery.

KENNEL. Any lot or premises on which four or more dogs at least four months of age are kept.

LOADING AREA. Any area where vehicles are parked, maneuvered, or loaded or unloaded of materials or equipment.

LOT. One unit of a recorded plat or subdivision, which unit has frontage on a public street and is occupied, or to be occupied, by a building and its accessory buildings, and including, as a minimum, any open spaces as are required under this chapter.

LOT, CORNER. A lot situated at the intersection of two or more streets.

LOT COVERAGE. The total allowable amount of lot area, expressed as a percentage, which may be covered by a principal use and its accessory structures.

LOT DEPTH. The average distance between the front and rear lot line (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width).

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

LOT, INTERIOR. A lot other than a corner lot.

LOT OF RECORD. A parcel of land that is recorded as a lot in a subdivision that has been recorded in the official public records of the County Recorder.

LOT WIDTH. The horizontal straight line distance between the side lot lines at the setback line.

NONCONFORMING USE. A use lawfully in existence on the effective date of this chapter and not conforming to the regulations for the district in which it is situated, except that such a use is not nonconforming if it would be authorized under a conditional use permit where located.

PARKING LOT. A parcel of land containing one or more unenclosed parking spaces whose use is principal to the lot as differentiated from an accessory use, as on a residential lot.

PARKING SPACE. An improved surface area, enclosed or unenclosed, sufficient in size to store one motor vehicle, together with a street or alley and permitted ingress and egress of the motor vehicle. A minimum of 170 square feet, excluding access drives, is required.

PRINCIPAL USE. The purpose for which land or a building thereon is designed, arranged, intended, or maintained, or for which it is or may be used or occupied.

PREMISES. A lot or plot containing a structure with the required front, side, and rear yards for a dwelling or other use as allowed under this chapter.

RECREATIONAL VEHICLE. A travel trailer, pickup camper, converted bus, tent trailer, or similar device used for temporary portable housing.

SCREENING. Any type of plant materials or an architectural form such as fencing being not less than 90% opaque to be utilized to obscure conflicting land uses and also to absorb and deflect noise.

SETBACK. The minimum horizontal distance between the lot line and the foundation wall of a building or the allowable building line as defined by the yard regulations of this chapter.

SIGN. A name, identification, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution, or business.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold, or offered upon the premises where such a sign is located.

SIGN, BUSINESS. A sign which directs attention to a business or profession or a commodity, service, or entertainment sold or offered upon the premises where such a sign is located.

SIGN, FLASHING. Any illuminated sign on which the illumination is not kept stationary or constant in intensity and color at all times when the sign is in use.

SIGN, ILLUMINATED. Any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes as part of the sign.

SIGN, NAMEPLATE. Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

SIGN, ROTATING. A sign which revolves or rotates on its axis by mechanical means.

SIGN, SURFACE AREA OF. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of the sign and not forming an integral part of the display. Only one side of a double-face of V-type sign structure shall be used in computing total surface area.

STORY. The portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF. A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of the story.

STREET. A public thoroughfare which affords principal means of access to abutting property.

STREET LINE. The right-of-way line of a street.

STRUCTURAL ALTERATION. Any change or addition to the supporting members of a building such as bearing walls, columns, beams, or girders.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

SUBDIVISION. A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than two and one-half acres in area and 150 feet in width, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term includes resubdivision, and, where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided.

USE. The purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

VARIANCE. A modification or variation of the provisions of this chapter, as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

YARD. A space in the same lot with a building open and unobstructed from the ground to the sky, except for fences five feet or less in height, and trees and shrubs.

YARD, FRONT. A yard extending across the front of the lot between the side yard lines and lying between the outer right-of-way line of the road or highway and the nearest line of the building. On corner lots, the ***FRONT YARD*** shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR. An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot. On all lots, the ***REAR YARD*** shall be at the opposite end of the lot from the front yard.

YARD, SIDE. An open unoccupied space between a building and the side line of the lot, and extending from the front lot line to the rear yard.
(1985 Code, § 11.03)

§ 152.004 VIOLATIONS.

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.
(1985 Code, § 11.99) Penalty, see § 10.99

§ 152.005 OFFICIAL ZONING MAP ADOPTED.

The document entitled "Official Zoning Map of the City of Gilbert," attached to the ordinance codified herein as "Exhibit A," and hereby made a part hereof, is hereby adopted as the Official Zoning Map of the city.
(Ord. 2006-2, passed 7-25-2006)

ZONING DISTRICTS

§ 152.020 GENERALLY.

(A) *Establishment of districts*. For the purpose of this chapter, the city is divided into the following districts:

(1) R-1 Low Density Residence District;

(2) R-2 Medium Density Multiple Dwelling Residence District;

(3) R-3 Mobile Home Park District;

(4) R-4 Ore Be Gone Residential Special Zoning District;

(5) C Commercial District;

(6) M-1 Industrial District;

(7) M-2 Mining and Related Activities District;

(8) P Public Recreation and Forest Reserve District; and

(9) FZ Floating Zone District.

(B) *Official Zoning Map*. The boundaries of the districts established by this chapter are delineated on the Official Zoning Map. The Official Zoning Map and all notations, references, and data shown thereon are hereby adopted and made part of this chapter and will be on permanent file, and for public inspection, in the City Hall. It shall be the responsibility of the Zoning Administrator and staff to maintain the map, and amendments thereto shall be recorded thereon within 30 days after official publication of amendments.

(C) *District boundaries*. The district boundary lines on the map follow either streets, alleys, or lot lines. Where the districts designated on the map are bounded by the street, alley, or lot lines, the center line of the street or alley or the lot lines shall be the boundary of the district, unless the boundary is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the zoning district map or by dimensions. Where the boundary of a district follows a railroad line, the boundary shall be deemed to be located midway between the main tracts of the railroad line.
(1985 Code, § 11.04) (Ord. passed 9-17-1985)

§ 152.021 R-1 LOW DENSITY RESIDENCE DISTRICT.

(A) *Purpose*. The R-1 Low Density Residence District is intended to provide suitable areas within the community for resident dwellings which relate to the Comprehensive Land Use Plan and where municipal utilities and services may be maintained at reasonable cost.

(B) *Permitted uses*. Within an R-1 District, unless otherwise provided by this chapter, no uses are permitted, except the following:

(1) One- and two-family detached dwellings, seasonal homes, and modular and prefabricated housing, where properly serviced and of suitable appearance which is in harmony with adjacent residential development. All dwellings must have an outside measurement of not less than 20 feet in width and must be attached to a permanent foundation constructed below the frost line;

(2) Parks and recreational areas owned or operated by governmental agencies;

(3) Public elementary or high schools, or private schools with an equivalent curriculum;

(4) Churches, parish homes, convents, children's nurseries, and schools, provided that no building shall be located within 50 feet of any abutting lot in any residential district;

(5) Plant nurseries, greenhouses, and vegetable gardening, but not involving a sales structure;

(6) Home occupations, as defined in § 152.003, and offices of professional persons when the use does not exceed one-third of the main floor space of a dwelling, is conducted only in the principal dwelling, and does not employ any persons not residing on the premises; and

(7) Public swimming pools, private recreational clubs, and tennis courts, except those operated for commercial purposes.

(C) *Accessory uses*. The following shall be permitted accessory uses within an R-1 District:

(1) Private garage or carport and boathouse, one of each designation;

(2) Private swimming pools, when completely enclosed within a chain link, wood, or similar safety fence five or more feet high;

(3) Boarding or rental of rooms to not more than two people on a premises;

(4) Maintenance of dogs and cats or other household pets, subject to licensing requirements, health regulations, and other applicable code provisions;

(5) Uses customarily incidental to the uses listed in divisions (B) and (D) of this section;

(6) Off-street parking, as regulated by § 152.050;

(7) Parking of one commercial or recreational motor vehicle of not over 26-foot length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent. Additional recreational/commercial equipment may be stored on the premises only when kept in an enclosed accessory structure; and

(8) Signs, as regulated in § 152.049.

(D) *Uses by conditional use permit*. Buildings or land may be used for the following if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Municipal administration buildings, police and fire stations, libraries, museums, post offices, and other municipal service buildings, except those customarily considered industrial in use, provided that no building shall be located within 50 feet of any lot in a residential district;

(2) Water supply buildings, reservoirs, wells, elevated tanks, and similar essential public utility and service structures;

(3) Club house, commercial country club, commercial swimming pool, or private swimming pool serving more than one family, provided that no principal structure shall be located within 50 feet of any lot in a residential district;

(4) Cluster single-family housing, detached, when keyed to topographic considerations or unique design proposals, subject to a minimum tract area of three acres under single or unified ownership. Overall density shall not exceed six dwelling units per acre (based on gross acreage) and

shall be permitted only subject to approval of an overall development plan for the tract by the Planning and Zoning Commission. In no case shall the Planning and Zoning Commission authorize a use prohibited in the district in which the housing project is to be located; and

(5) Hospitals, nursing homes, and elderly housing projects, provided that no principal or accessory structure shall be located within 50 feet of any lot in a residential district.

(E) *Height, yard setbacks, and lot area and coverage requirements*. Height, yard setbacks, and lot area and coverage requirements shall be as stated in Appendix A of this chapter.

(F) *General regulations*. Additional regulations applicable in the R-1 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.05) (Ord. passed 9-17-1985; Ord. 11.05, passed 11-28-2000) Penalty, see § 10.99

§ 152.022 R-2 MEDIUM DENSITY MULTIPLE DWELLING RESIDENCE DISTRICT.

(A) *Purpose*. The R-2 Medium Density Multiple Dwelling Residence District is intended to provide areas suitable for the location of apartment buildings, row housing, commercial recreation lodging structure, and the like, which maintain density and space standards that will ensure a wholesome living environment which effectively relate to the comprehensive plan for community development.

(B) *Permitted uses*. Within an R-2 District, unless elsewhere permitted by this chapter, no uses are permitted, except the following:

(1) Uses permitted in the R-1 District;

(2) Apartment buildings and multiple dwelling structures housing from three to 12 units;

(3) Attached row housing and townhouse developments;

(4) Churches, schools, hospitals, nursing homes, and convalescent homes or housing for the elderly, provided that no building shall be located within 50 feet of an abutting single-family lot boundary within any residence district; and

(5) Boarding houses or rental of rooms for three to 12 persons on a premises.

(C) *Accessory uses*. The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead:

(1) Storage garages and private recreational facilities for the use and convenience of residents of the principal use;

(2) Shops, restaurants, off ices, club or lodge rooms, and nursing care facilities, when attached to the principal use and designed for the use and convenience of the occupants only. Accessory uses of this nature may be permitted in multiple resident structures, provided that no advertising or display relative thereto is visible from the outside of the building. No more than 10% of the gross floor area of the principal use may be devoted to this type of accessory use;

(3) Off-street parking and loading, as regulated by § 152.050;

(4) Home occupations, as defined in § 152.003;

(5) Signs, as regulated by § 152.049; and

(6) Accessory uses customarily incidental to the uses listed in divisions (B) and (D) of this section.

(D) *Uses by conditional use permit*. Buildings or land may be used for the following if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Multiple dwelling structures containing more than 12 units;

(2) Retail, office, and personal service establishments of an essential or "convenience" nature;

(3) Municipal administration buildings and structures, police and fire stations, public service establishments (nonprofit), and essential public utility and service structures;

(4) Mortuaries or funeral homes;

(5) Offices for administrative, executive, professional, or research organizations having only limited contact with the general public, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the principal use; and

(6) Clubs, lodges, or fraternal organization centers, nonprofit only, provided that no business activity carried on as a service to the public shall be permitted.

(E) *Height, yard setbacks, and lot area and coverage requirements*. The height, yard setbacks, and lot area and coverage requirements shall be as stated in §§ 152.040 through 152.050.

(F) *General regulations*. Additional regulations applicable to the R-2 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.06) Penalty, see § 10.99

§ 152.023 R-3 MOBILE HOME PARK DISTRICT.

(A) *Purpose*. This chapter is to promote the health and safety of the citizens of the city by regulating the establishment and operation of mobile home parks within the city and providing penalty for violation thereof.

(B) *Use*. In view of the above purpose, it is necessary to have reasonable rules and regulations concerning the conduct, use, and operation of mobile home parks existing and operating within the city limits hereinafter set out as follows.

(1) Access to the mobile home parks or subdivision shall be from an arterial highway or secondary thoroughfare; number and location of access drives shall be controlled for traffic, safety, and protection of surrounding properties; no mobile home space shall be designed for direct access to a street outside the boundaries of the mobile home park; and interior access drives shall have at least a 40-foot right-of-way and shall be surfaced with a durable, dustproof surface of concrete or bituminous concrete at least 25 feet in width as approved by the City Engineer.

(2) The minimum width and/or depth of the mobile home park or subdivision shall be 300 feet and minimum total area shall be ten acres. A certificate of occupancy shall not be issued until the first 25 spaces are developed and available for occupancy.

(3) A mobile home park shall contain at least 1,000 square feet per mobile home for community facilities, including play space, utility room, parking, and access roads.

(4) A mobile home park shall be surrounded by a landscaped strip of open space 25 feet along the street frontage with an arterial highway and 25 feet wide along all other lot lines or street frontage. The 25-foot distance shall be measured in addition to the plotted lot.

(5) The minimum lot area for each mobile home site shall be no less than 5,000 square feet; the minimum dimensions shall be 50 feet by 100 feet, with corners of each site or lot visibly marked by a permanent marker.

(6) Side to side spacing between mobile homes shall be at least 28 feet. Back to back spacing shall be at least 15 feet, and no part of a mobile home shall extend closer than five feet to the boundaries of the next individual mobile home site lot line. The distance between any mobile home and any building shall be at least 20 feet.

(7) Off-street parking spaces in mobile home parks for automobiles shall be provided in the ratio of one space per mobile home, in locations convenient to individual mobile homes or groups of mobile homes. Parking spaces provided shall be situated so as to be at least ten feet from the nearest mobile home on the next adjoining lot.

(8) Proper provision shall be made for public water supply, sanitary sewers, fire protection, refuse collection, and snow removal.

(9) No mobile home shall contain more than one dwelling unit and in no case shall a mobile home be rented to two or more families.

(10) Each mobile home within any mobile home park is to be completely skirted around the bottom with a suitable material such as aluminum, plywood properly painted, or Masonite properly painted. The skirting is to be neat in appearance from all exterior points of view.

(11) No mobile home is to be occupied or rented by more than one family.

(12) Refuse and garbage shall be stored in containers specified by the Council.

(13) All domestic animals will be kept in compliance with this code.

(14) The term ***OPERATOR***, as used in this chapter, is construed to include the following: persons, partnerships, firms, companies, corporations, tenants, owners, lessee, licensee, agents, heirs, or assigns.

(15) All lots shall be seeded or sodded in the area not occupied by a mobile home or parking space.

(16) Suitable lighting shall be provided during hours of darkness for walks and drives.

(17) Each site shall be provided with a paved parking area measuring at least 20 feet by 20 feet.

(C) *Special conditions.*

(1) No person shall establish, operate, or maintain a mobile home park in the city until:

(a) A plat showing individual sites;

(b) Proposed setback lines;

(c) Street layout;

(d) Landscaping; and

(e) Utility services, including water, sanitary sewer, storm drains, lighting, and electrical systems.

(2) The operator must comply with all state regulations relating to mobile home parks and he or she shall also comply with this code.

(3) All plumbing systems shall be installed in accordance with the State Board of Health and the State Plumbing Code.

(D) *General regulations*. Additional regulations applicable in the R-3 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.07) (Ord. passed 9-13-2000) Penalty, see § 10.99

§ 152.024 R-4 ORE BE GONE RESIDENTIAL SPECIAL ZONING DISTRICT.

(A) All provisions of this chapter must be complied with in the R-4 Ore Be Gone Residential Special Zoning District.

(B) The R-4 District shall consist of blocks one through four, inclusive, Lake Ore Be Gone.

(C) The following special provisions must be complied with within the R-4 District:

(1) Substantial completion within 12 months from purchase of lot;

(2) Single-family dwellings only with earth tone natural or muted colors;

(3) No manufactured or mobile homes are allowed;

(4) Modular homes are allowed;

(5) Minimum 1,400 square feet of living space (not garage) footprint. Living space is exclusive of garages, decks, and open or non-air conditioned porches. Living space does not include basement;

(6) Up to three-stall garage not to exceed two-thirds of the square footage of footprint of house;

(7) One accessory building is allowed and must be of same style or appearance as the house, no larger than a total of 300 square feet (no more than two structures);

(8) No outside storage of heating fuel;

(9) Parking of one recreational motor vehicle of not over 26 feet in length used by the property owner;

(10) Inoperable vehicles are not allowed;

(11) Fencing shall comply with M.S. § 180.03, as it may be amended from time to time. The fence shall be erected and required along the outside perimeter of the buff line to a minimum of three feet above grade. No chain link fencing or snow fencing allowed. Fencing may be wood, cast iron, and aluminum or composite and well maintained. Fences must be earth tone or muted colors;

(12) No commercial or home businesses;

(13) For driveways, concrete, bituminous, or brick is to be installed no later than 12 months after occupancy;

(14) No double lots;

(15) Setback from the front street is 30 feet;

(16) Setback from the bluff edge is 25 feet;

(17) Setback side yard is 15 feet;

(18) No more than 30% lot coverage; and

(19) Construction must conform to zoning requirements.
(Ord. passed 11-13-2007) Penalty, see § 10.99

§ 152.025 C COMMERCIAL DISTRICT.

(A) *Purpose*. The C Commercial District is designed to provide a compact shopping area for the location of offices and retail stores necessary for servicing the community and surrounding areas; which is closely aligned with the approved City Comprehensive Plan; and which maintains a mutually compatible relationship with the various types of uses.

(B) *Permitted uses*. Within a C District, unless elsewhere provided by this chapter, no uses are permitted, except for the following:

(1) Amusement and recreation establishments such as indoor theaters, swimming pools, skating rinks, billiard halls, bowling alleys, and similar commercial recreation facilities;

(2) Antique shops;

(3) Automobile dealers, new and used car lots, and boat and recreational vehicle display lots and structures;

(4) Appliance stores;

(5) Art studios, art galleries, and sales and supplies;

(6) Bakeries, provided the room or rooms containing the preparation and baking process shall not have a gross floor area in excess of 2,400 square feet;

(7) Bank and savings institutions;

(8) Barber and beauty parlors;

(9) Bookkeeping or auditing establishments;

(10) Book and stationery stores;

(11) Camera and photo stores and photography studios;

(12) Candy and ice cream stores;

(13) Carpet and rug stores;

(14) Clinics, for treatment of animals, excluding training runs, stables, or kennels;

(15) Clothing stores, including pressing and tailoring shops;

(16) Club and lodge halls;

(17) Decorating studios;

(18) Department stores;

(19) Drugstores;

(20) Dry cleaning and laundry receiving and pickup stations, excluding laundering and dry cleaning processing and self-service laundromats;

(21) Dry goods or notions stores;

(22) Electrical appliance sales and service;

(23) Florist shops, nurseries, and garden shops;

(24) Grocery stores and delicatessens;

(25) Furniture stores;

(26) Gift shops;

(27) Hardware stores;

(28) Hobby and toy stores;

(29) Jewelry stores;

(30) Libraries;

(31) Liquor stores;

(32) Loan offices and finance companies;

(33) Locksmith shops;

(34) Medical and dental clinics;

(35) Mortuaries or funeral homes;

(36) Motels and hotels;

(37) Newsstands and tobacco shops;

(38) General business and professional offices;

(39) Optical stores;

(40) Parking and garages other than those accessory to a principal use for the parking and storage of private passenger automobiles only;

(41) Pet shops;

(42) Phonographs, record, and sheet music stores;

(43) Photography studios;

(44) Physical culture and health services and clubs, and reducing salons and masseurs;

(45) Public parks and recreation areas and structures;

(46) Municipal and public buildings;

(47) Radio and television sales and repair stores;

(48) Sewing machine sales and service shops;

(49) Shoe and hat sales and repair shops;

(50) Sporting goods stores;

(51) Souvenir and rock shops;

(52) Stock and brokerage firms;

(53) Taverns and restaurants, excluding drive-in type facilities;

(54) Tourist information center;

(55) Telephone and telegraph offices, and telephone booths;

(56) Theaters, excluding drive-ins;

(57) Travel bureaus and transportation ticket offices; and

(58) Vending machines which are coin- or card-operated, only when incorporated into a structure.

(C) *Accessory uses*. The following uses shall be permitted accessory uses in the C District; they may not exist as principal uses:

(1) Accessory uses customarily incidental to the uses listed in divisions (B) and (D) of this section;

(2) Off-street parking and loading, as regulated by § 152.050; and

(3) Signs, as regulated by § 152.049.

(D) *Uses by conditional use permit*. Buildings and land may be used for the following, if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Any business activity of the same general character as those listed in division (B) above;

(2) Municipal sanitation, where screening and buffering is provided;

(3) Drive-in restaurant or retail sales facilities, provided sufficient off-street parking is provided; lighting and any resultant glare shall be directed away from residential districts; and the surface of the parking area shall be of a dust-free and well-drained covering;

(4) Drive-in restaurant and drive-in theater, provided that screening and landscape treatment is established when the above use is within 100 feet of an R District;

(5) Dwelling units only where accessory and attached to a principal use as listed in division (B) above; and

(6) Motor fuel and automotive service stations.

(E) *Height, yard setbacks, and lot coverage requirements*. The height, yard setbacks, and lot coverage requirements shall be those stated in Appendix A of this chapter.

(F) *Additional regulations*.

(1) Lighting (glare) shall be directed away from public rights-of-way and residential districts.

(2) An awning, canopy, or marquee suspended from a building may extend over the public right-of-way ten feet, but not to within two feet of the curb line. The structures shall be limited in height to the first story of any building located upon and contiguous to Broadway Avenue. In all other areas of the city, the structures shall be of a height not less than 12 feet from the sidewalk or ground grade line, and the owner of the structures shall be responsible for their structural safety.

(3) All principal and accessory uses, except business signs, which are situated within 50 feet of a residential district, shall be screened from the district by a wall or fence of not less than 90% opacity and not less than five nor more than seven feet in height above the level of the residential district property at the district boundary. Walls or fences or lesser heights or planting screens may be permitted by the Planning and Zoning Commission if there is a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provisions of adequate amounts of light and air to those properties. Loading docks in the C District shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

(4) All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios, or any other uses, shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean, and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies, or merchandise.

(5) All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks and walkways surfaced with a hard, all-weather, durable, dust-free material and properly drained. Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the Planning and Zoning Commission who may require the additional measures for traffic control as it may deem necessary, including, but not limited to, the following: directional signalization, standby turn lanes, illumination, and storage area and distribution facilities within the commercial site to prevent backup of vehicles on

public streets. No area used by motor vehicles other than driveways serving as ingress and egress to the commercial site shall be located within the public street right-of-way. All driveways to or from public streets shall be subject to the following restrictions:

(a) *Driveway widths; measurement between roadway edges.*

Type	***Maximum Feet***	***Minimum Feet***
One-way	18	12
Two-way	23	22

(b) *Minimum driveway angle to street.* Thirty degrees when street is one-way or divided; otherwise 60 degrees;

(c) *Minimum distance between driveways.* Twenty feet between roadway edges measured along street curb line; and

(d) *Minimum distance of driveway from street intersections, measured along street curb line between nearest driveway edge and intersecting street curb line.*

If the driveway enters a street classified as a	***and the intersecting street is classified as a***	***and the driveway enters a lane approaching or leaving the intersection***	
		Approaching	***Leaving****
Minor street	Minor street, collector street, or minor arterial	15 feet	15 feet
	Major Arterial	20 feet	15 feet
Collector street	Minor street	20 feet	15 feet
	Collector, minor arterial	25 feet	15 feet
	Major arterial	35 feet	20 feet
Major arterial	Minor street	20 feet	15 feet
	Collector, minor arterial	25 feet	15 feet
	Major arterial	40 feet	20 feet
NOTES TO TABLE: * - Minimum distance to be the same as that specified for approaching lane if left turns are permitted into or out of driveway.			

(G) *General regulations.* Additional regulations applicable to the C District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.08) (Ord. passed 10-26-1993) Penalty, see § 10.99

§ 152.026 M-1 INDUSTRIAL DISTRICT.

(A) *Purpose*. It is the purpose of the M-1 Industrial District to create industrial areas that will be acceptable within the city and will not adversely affect adjacent business or residential neighborhoods. Manufacturing establishments should not create any offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from that type or use, provided that they be minimized or eliminated by operations or site design features. In the interest of general health and welfare, residential and certain institutional uses are not permitted within this District.

(B) *Permitted uses*. Within an M-1 District, unless elsewhere provided by this chapter, no uses are permitted, except for the following:

(1) Clay, stone, and glass products (concrete, pottery, and porcelain products);

(2) Wholesale bakery products, beverages, creamery and dairy operations, canning of fruits and vegetables, and meat and fish products processing and packaging (no slaughtering);

(3) Vehicle metal components (nuts, screws, and nails), foundry products, appliances and associated elements, machinery parts, tools, plumbing supplies, machine shops, and locomotive and rail car building and repair;

(4) Wood and paper products;

(5) Tire retreading and vulcanizing plants;

(6) The storage, handling, assembly, and distribution of goods and materials for wholesale or on-site use; and

(7) Railroad yard and freight station, if located not less than 200 feet from any R District.

(C) *Accessory uses*. The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses:

(1) Any accessory use, building, or structure customarily incidental to a principal use permitted above, and located on the same lot therewith;

(2) Specialized freight and yard equipment, private utility structures, secondary processing structures, and similar specialized structures;

(3) Parking and loading facilities, as regulated in § 152.050; and

(4) Signs, as regulated in § 152.049.

(D) *Uses by conditional use permit*. Buildings or land may be used for the following, if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Manufacturing of building materials (cement, lime, and similar products);

(2) Contractor's shop and storage yard; and

(3) Junk yards, including automobile wrecking and industrial metal and waste salvage, but not including refuse or garbage disposal, if located at least 200 feet from any residence dwelling; provided all operations are conducted within an area enclosed with a solid wall or uniform tight board fence, including gates, at least eight feet in height and the enclosure shall be properly maintained.

(E) *Height, yard setbacks, and lot coverage requirements*. Building height, lot area, bulk, and yard setback requirements shall be those stated in Appendix A of this chapter.

(F) *Special District provisions*.

(1) *Landscaping*. All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage, shall be landscaped with trees, shrubs, or planted ground cover. The landscaping shall conform with the planting plan approved at the time the building permit was issued. It shall be the owner's responsibilities to see that this landscaping is maintained in an attractive and well-kept condition. All adjacent vacant lots, tracts, or parcels under the same ownership shall also be properly maintained.

(2) *Storage*. All raw materials, supplies, finished or semi-finished products, and equipment shall be stored within a completely enclosed building, or within the confines of a 100% opaque wall or fence not less than eight feet high; provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter-ton capacity may be stored within the permitted parking lot areas.

(3) *Screening*. All principal, accessory, and conditional uses, except business signs, which are situated within 50 feet of a residential district, shall be screened and buffered from the district by a separation of open space which shall have a minimum depth of 30 feet and shall include a required fence or vegetative screening of not less than 90% opacity and not less than eight feet in height above the level of the residential district property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the Planning and Zoning Commission if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provision of adequate amounts of light and air to those properties. Loading docks in the M-1 District shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

(G) *General regulations*. Additional regulations applicable to the M-1 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.09) Penalty, see § 10.99

§ 152.027 M-2 MINING AND RELATED ACTIVITIES DISTRICT.

(A) *Purpose*. It is the purpose of the M-2 Mining and Related Activities District to create industrial areas to accommodate a wide variety of industrial establishments which may operate to their maximum advantage without adversely affecting other nearby similar or dissimilar uses and activities.

(B) *Permitted uses*. Within an M-2 District, unless elsewhere provided by this chapter, no uses are permitted, except for the following:

(1) Any use permitted in the M-1 District;

(2) Mining and related activities; and

(3) Any industrial use which is not specifically prohibited herein, or any industrial use not listed as a conditional use herein below, may be permitted.

(C) *Accessory uses*. The following uses shall be permitted accessory uses within an M-2 District: accessory uses as listed in the M-1 District.

(D) *Uses by conditional use permit*.

(1) Buildings or land may be used for the following if granted a conditional use permit, as provided in §§ 152.105 and 152.106.

(2) The following uses may only be authorized as a conditional use by the Planning and Zoning Commission if located at least 400 feet from any residential district, and if the location of the use has been approved by the Council after receiving reports from the Fire Chief, the Planning and Zoning Commission, and the State Pollution Control Agency:

(a) Acid manufacture;

(b) Cement or lime manufacture;

(c) Distillation of coal or wood;

(d) Explosive manufacture or storage, if located at least 2,000 feet from a residential district;

(e) Fertilizer manufacture;

(f) Garbage, reduction, or dumping;

(g) Smelting of tin, copper, zinc, or iron ores;

(h) Manufacture of paint products and paper pulp; and

(i) Any other use which, in the opinion of the Commission, is of similar character to those hereinbefore described.

(E) *Height, yard setbacks, and lot coverage requirements*. Building height, lot area, bulk, and yard setback requirements shall be those stated in Appendix A of this chapter.

(F) *Special District provisions*.

(1) All future mining operations located within 200 feet of state highways and located within 300 feet of any residential district shall provide a suitable landscape buffer, to be approved by the Planning and Zoning Commission, between these uses. It shall be the mining operations owner's responsibility to see that the buffer areas are maintained in a well-kept condition.

(2) Additional regulations applicable to the M-2 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.10) Penalty, see § 10.99

§ 152.028 P PUBLIC RECREATION AND FOREST RESERVE DISTRICT.

(A) *Purpose*. The P Public Recreation and Forest Reserve District is intended to recognize and protect those areas within the city which are best suited for active and passive recreation and which will effectively contribute to the development and community growth pattern as proposed in the Comprehensive Land Use Plan.

(B) *Principal uses*. Within a P District, unless otherwise provided by this chapter, no uses are permitted, except for the following:

(1) Public parks and playgrounds owned or operated by government agencies;

(2) Undeveloped forest reserves (passive recreation only);

(3) Public swimming pool, public community center, and cultural or historical structures and areas;

(4) Public shoreline frontage and landing docks;

(5) Public trail areas, community campgrounds, and general recreation areas under public ownership; and

(6) Public tennis courts, archery ranges, and similar facilities not operated for commercial purposes.

(C) *Accessory uses*. The following uses shall be permitted accessory uses within a P District:

(1) Uses customarily incidental to the uses listed in divisions (B) and (D) of this section;

(2) Off-street parking, as regulated in § 152.050; and

(3) Signs, as regulated in § 152.049.

(D) *Uses by conditional use permit*. Buildings or land may be used for the following, if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Public utility and service buildings and structures of an essential nature, except those normally considered industrial in use;

(2) Uses of the same general character as those listed in division (B) above;

(3) Nurseries, tree farms, and agricultural farming and grazing;

(4) Farm drainage systems, flood control and watershed structures, and erosion controls;

(5) Churches, cemeteries, and memorial gardens;

(6) One-family non-farm dwelling, but not including residential subdivision developments; and

(7) Animal care facilities (stables, kennels, training runs, and the like).

(E) *Special district provisions*.

(1) *Location near body of water*. No structure designed for habitation shall be located closer than 100 feet to the normal high-water mark of any stream, river, lake, or body of water.

(2) *Topography*.

(a) The cutting or disturbance in other manner of natural forest ecology shall be restricted within a reasonable area paralleling the shoreline of any recreational trail. A length of this area may be clear cut to allow a view corridor to water. However, any cutting shall leave sufficient cover to screen cars, dwellings, and other structure, except boathouses and docks, from view from the shoreline or trail.

(b) Natural shrubbery shall be preserved as far as practicable. Where removal is necessary for construction of any structure or use except permitted principal uses, shrubbery must be replaced with other vegetation which is equally suitable in retarding surface runoff and soil erosion.

(c) No structure shall be placed in any area which will require grading and/or filling which will result in impairment of public waters by reason of erosion and sedimentation, exceed provisions of statewide standards for management of flood plain areas, or result in impairment of fish and aquatic life.

(F) *Height, yard setback, and lot coverage requirements*. The height, yard setback, and lot coverage requirements for the P District shall be those stated in Appendix A of this chapter.

(G) *General regulations*. Additional regulations applicable in the P District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.11)

§ 152.029 FZ FLOATING ZONE DISTRICT.

(A) *Purpose*. Within the FZ Floating Zone District, a prospective developer shall choose a site and present a project development plan for the site to the city indicating that the standards for the proposed district as stated in this chapter have been complied with. The Planning and Zoning Commission and the Council must determine that the development proposed has merit and that the proposed location of the development is appropriate. Upon acceptance of the proposed project, this chapter shall then be amended consistent with the project; the amendment may include all or a portion of the Floating Zone.

(B) *Permitted uses*. Within the FZ District, unless otherwise provided in this chapter, no uses are permitted, except for the following:

(1) Permitted uses within the R-1 District;

(2) Permitted uses within the R-2 District;

(3) Permitted uses within the C Commercial District; and

(4) Permitted uses within the M-1 District.
(1985 Code, § 11.115) (Ord. passed 9-17-1985) Penalty, see § 10.99

GENERAL ZONING REGULATIONS

§ 152.040 SCOPE.

(A) Except as may otherwise be provided in §§ 152.085 through 152.092, no building shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used, except for a use permitted in the district in which the buildings, uses, or land shall be located.

(B) No application for a building permit or other permit or license, or for a certificate of zoning compliance shall be approved by the Zoning Administrator and no permit or license shall be issued by any other city department which would authorize the use or change in use of any land or building contrary to the provisions of this chapter, or the erection, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this chapter.

(C) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided, nor shall the area of any newly platted lot be reduced below the minimum requirements herein established.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.041 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.042 ACCESSORY BUILDINGS.

(A) In case an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than five feet to the main building.

(B) A detached accessory building shall not be located in any required front yard, except where the front yard lies between the building line and the shoreline in which case the arrangement may be permitted.

(C) A detached accessory building not exceeding 15 feet in height shall occupy not more than 30% of the area of any side or rear yard, providing further that no detached accessory building shall be closer than 20 feet to any rear lot line, nor closer than five feet to any side property line, nor closer than 60 feet to the front property line, where an alley exists an accessory building may be located no closer than five feet to the outer alley line and access to those structures shall be limited to the alley.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.043 HEIGHT REGULATIONS.

(A) Where the average slope of a lot is greater than one foot rise or fall in seven feet of horizontal distance from the established street elevation at the property line, one story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.

(B) Height limitations set forth elsewhere in this chapter may be increased by 100% when applied to the following: chimneys, cooling towers, elevator bulkheads, fire towers, monuments, water towers, stacks, lookout towers, storage lofts, tanks, ornamental towers and spires, wireless towers, or necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.044 YARD REGULATIONS.

(A) The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(B) Measurements shall be taken from the nearest point of the wall of a building to the lot line question, subject to the following qualifications.

(1) The ordinary projections of window wells, sills, belt courses, cornices, and ornamental features may extend to a distance not to exceed 18 inches.

(2) Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than two feet or into a court not more than three and one-half feet shall be permitted, where the same are to be so placed as not to obstruct light and ventilation.

(3) A yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall not again be used as a yard or other open space for another building.

(4) The setback requirements shall be observed on each street side of a corner lot; provided, however, that the buildable width of a lot shall not be reduced to less than 30 feet.

(5) The following shall not be considered to be obstructions when located in the required yards specified:

(a) *In front yards.*

1. A landing, patio, or uncovered porch may extend into the required front yard to a distance net exceeding ten feet, if the landing, patio, or porch has its floor no higher than the entrance floor of the building.

2. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view.

3. On double frontage lots, the required front yard shall be provided on both streets.

4. Filling station pumps and pump islands may be located within required yards; provided they are not less than 15 feet from any street line and not less than 50 feet from any residential boundary.

5. Air conditioning units, excluding window units, shall be located a minimum of 20 feet from all lot lines, but not within the front yard.

(b) *In side yards.* Where dwelling units are erected above commercial establishments, no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district; and

(c) *In rear yards.* Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may project for a distance not to exceed five feet when these are so placed as not to obstruct light and ventilation.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.045 VISION CLEARANCE.

(A) *Fences and walls in front yard.* In any residence zone on any corner lot, no fence or accessory structure or planting shall rise over two and one-half feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall or shrub planting of more than two and one-half feet in height above the level of the public sidewalk shall be erected on any interior lot within ten feet of the front property line where it will interfere with traffic visibility from a driveway.

(B) *Fences in side and rear yards*. No fence or wall, other than a retaining wail, along a side line of a lot in residence zone, shall be higher than six feet unless any part above such a height has at least 50% of the surface uniformly open and unobstructed, unless the adjoining lot is not in a residential zone.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.046 STREET CLOSURE.

Whenever any street, alley, or other public way is vacated by official action of the city, the zoning district adjoining each side of the street, alley, or public way shall be automatically extended to the center of the vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.047 AREAS UNDER WATER.

All areas within the corporate limits of the city which are under water and not shown as included within any zone shall be subject to all of the regulations of the zone which immediately adjoins the water area. If the water area adjoins two or more zones, the boundaries of each zone shall be construed to extend into the water area in a straight line until they meet the other district at a half-way point.
(1985 Code, § 11.13)

§ 152.048 STRUCTURES TO HAVE ACCESS.

No building may be erected without having public street frontage or with access to an approved private street.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.049 SIGN REGULATIONS.

All signs hereafter erected or maintained, except official, public traffic, and street signs, shall conform with the provisions of this section and other code provisions or regulations.

(A) *General provisions for all districts*. The following regulations shall apply to all signs hereafter permitted in all districts.

(1) Signs shall not be permitted within the public right-of-way or easements.

(2) Flashing or rotating signs shall not be permitted in any district.

(3) No sign shall be placed that resembles any official marker erected by a governmental agency or displaying the words as "stop" or "danger."

(4) No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, or access to any building or structure.

(5) Upon notification by the Planning and Zoning Commission or the Zoning Administrator that a sign is rotted, unsafe, or unsightly, the owner of the sign or owner of property thereunder shall remove or repair same.

(6) The owner, lessee, or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

(7) Political signs may be permitted for a period of not more than 30 days before and ten days after an election.

(B) *Signs in R-1 and R-2 Districts.*

(1) A name plate sign identifying the owner or occupant of a building or dwelling unit, provided the sign does not exceed two square feet in surface area, except that signs with maximum surface area of four square feet may be allowed for a home occupation or business. The signs shall not be illuminated;

(2) A sign pertaining to the lease or sale of the building or property, provided the sign does not exceed four square feet in surface area. The signs shall not be illuminated;

(3) A temporary sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, provided the sign does not exceed 24 square feet in surface area and is removed prior to the occupancy of the building. The sign shall not be illuminated;

(4) One identification sign not to exceed 24 square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries, or similar use. The signs may be illuminated;

(5) Directional, unilluminated signs not exceeding two square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries, or similar uses excluding office or commercial establishments, provided that each use shall be limited to one such per thorough fare approach; and

(6) Public street identification signs, traffic signs, and directional signs in any parking area where the signs are necessary for the orderly movement of traffic.

(C) *Signs in C, M-1, and M-2 Districts*. Signs may be erected in commercial and industrial districts, subject to the following provisions.

(1) The total surface area of all business signs on a lot shall not exceed two square feet per lineal foot of lot frontage or 10% of the building frontage area, or 75 square feet in area, whichever is greater. Signs may be illuminated.

(2) Advertising sign structures shall be limited to one for a lot of 100-foot frontage or less and to only one for each additional 100 feet of additional lot frontage. The signs shall be permitted only in the M-2 District.

(3) The advertising structure may not contain more than two signs per facing, not exceeding 55 feet in total length.

(4) No advertising sign may be erected within 50 feet of an adjoining residential district.

(5) For corner lots, the frontage used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.

(6) No sign shall project higher than ten feet above the height of the building, or 32 feet above the average grade of the building line, whichever is greater.

(7) Signs painted on a building shall be governed by the square footage limitations specified above. The signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the Planning and Zoning Commission and/or Zoning Administrator, they are not so maintained.

(8) Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and the light shall be directed away from any residential district. The sign may not project more than five feet from the building line nor closer than 12 feet to ground level.

(D) *Signs in the P Public Recreation and Forest Reserve District*. Signs may be erected in P Districts only in such manner as described below.

(1) One identification sign not to exceed 24 square feet in surface area displaying directional or identifying information for public noncommercial recreational facilities such as parks, trails, pools, community centers, and the like. The signs shall not be illuminated;

(2) Directional unilluminated signs, not exceeding two square feet in surface area displaying directional information for public facilities, provided that each use shall be limited to one sign per thoroughfare approach; and

(3) Public street identification signs, traffic signs, and directional signs in any parking area where the signs are necessary for the orderly movement of traffic.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.050 OFF-STREET PARKING AND LOADING; UNLOADING SPACE REQUIREMENTS.

(A) *Parking space requirements*. The required parking and loading spaces shall be provided on the premises of each use. Each parking space shall contain a minimum area of not less than 300 square feet, including access drives, and a width of not less than nine feet, and a depth of not less than 20 feet. The minimum number of required off-street parking spaces for various uses shall be as follows:

(1) Dwelling units three stories or less: one parking space for each unit;

(2) Multiple dwelling over three stories: two parking spaces for each dwelling unit;

(3) Mobile home park: refer to § 152.023;

(4) Motel or motor hotel: one and one-half parking spaces for each rental room or suite;

(5) Churches: one parking space for each eight seats, based on the design capacity of the main seating area;

(6) Elementary school or junior high school: two parking spaces for each classroom;

(7) Senior high school: three parking spaces for each classroom;

(8) Public administration buildings, community center, public library, museum, art galleries, post office, and other public service buildings: ten parking spaces plus one additional space for each 500 square feet of floor area in the principal structure;

(9) Assembly or exhibition hall, armory, auditorium, theater, or sports arena: one parking space for each four seats, based upon design capacity;

(10) Golf course, golf clubhouse, country club, swimming club, tennis club, and public swimming pool: 36 spaces, plus one space for each 500 square feet of floor area in the principal structure;

(11) Hospitals: one parking space for each three beds; convalescent or nursing home, one parking space for each four beds;

(12) Automobile service station: four parking spaces plus two parking spaces for each service stall. The parking spaces shall be in addition to gas pump service area;

(13) Drive-in restaurant: twenty parking spaces or one space for each 20 square feet of floor area, whichever is greater;

(14) Restaurant, café, night club, tavern, or bar: one parking space for each 100 square feet of floor area;

(15) Bowling alley: five parking spaces for each bowling lane;

(16) Office building: three parking spaces for each 500 square feet of floor area;

(17) Retail stores and service establishments: one parking space for each 100 square feet of floor area;

(18) Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sales, and auto repair: one parking space for each 500 square feet of floor area;

(19) Shopping center: where several business uses are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three square feet of gross parking area for each one square foot of gross floor area; separate on-site space shall be provided for loading and unloading;

(20) Storage, wholesale, or warehouse establishments: one parking space for each two employees on the major shift or one space for each 2,000 square feet of floor area, whichever is greater, plus one space for each company motor vehicle when customarily kept on the premises; and

(21) Manufacturing or industrial plant, research or testing laboratory, warehouse, or similar establishment: one parking space for each two employees on the major shift, but no less than one space for every 1,000 square feet of gross floor area.

(B) *Off-street loading design and maintenance.*

(1) *Location.* All required loading and unloading into or out of trucks in excess of three-fourths-ton capacity, or railroad cars, shall be conducted at facilities specifically designed or designated for that purpose. These facilities shall be located upon the zoning lot of the principal use requiring them. All berths beyond one shall be separate from areas used for off-street parking.

(2) *Access.* Each required off-street loading berth shall be so designed as to avoid undue interference with other vehicular or rail access or use of public streets, alleys, or other transport system.

(3) *Surfacing.* All off-street loading facilities, including loading berths and maneuvering areas, shall be surfaced with a hard, all-weather, dust-free durable surfacing material and shall be well drained and landscaped and shall be maintained in a sightly and well-kept condition.

(4) *Landscaping and screening*. All berths shall be screened from view from the property street frontage and/or from the zoning district boundary when the adjacent property or property across the street frontage or side street frontage is zoned or used for residential purposes. The screening shall be accomplished by a solid wall not less than eight feet in height and shall be so designed as to be architecturally harmonious with the principal structure. Screen planting may be substituted for the prescribed wall, however, the plantings must not be less than two and one-half inches in diameter and of the type as to permit a minimum of 90% opacity during all months of the year.

(5) *Design*. Fifty percent of the required number of truck berths shall be 50 feet in length, 12 feet in width, and 15 feet in height. All loading areas shall consist of a maneuvering area in addition to the berth and shall not use any of that portion of the site containing parking stalls. Maneuvering areas shall be of the size as to permit the backing of truck tractors and coupled trailers into a berth, without blocking the use of other berths or drive or maneuvering areas.

(6) *Required loading areas*.

(a) Space for loading and unloading of goods, supplies, and services shall be provided in addition to required off-street parking spaces and shall be sufficient to meet the requirements of each use.

(b) The following uses shall observe required loading and unloading spaces as indicated:

1. Motels, hotels, lodging and rooming houses, private clubs and lodges: one for each structure over 20,000 square feet of gross floor area;

2. Light and heavy commercial uses except where otherwise specified: one space for the first 10,000 square feet of gross floor area and one space for each additional 50,000 square feet of gross floor area;

3. Auditorium, stadium, gymnasium, community centers, and religious institutions and schools (private and public): one for each structure over 100,000 square feet of gross floor area;

4. Office building and professional offices (other than doctor and dentist) banks: one space for buildings between 30,000 and 100,000 square feet of gross floor area and one space for each additional 100,000 square feet of gross floor area;

5. Restaurants and other food-dispensing establishments, except drive-in restaurants: one for each structure with over 10,000 square feet of gross floor area;

6. Furniture, automobile, and boat sales and appliance sales: one space plus one additional space for each 25,000 square feet of gross floor area;

7. Hospitals, rest homes, nursing homes, and the like: one space plus one additional space for each 25,000 square feet of gross floor area;

8. Bowling alleys: one space for each structure over 20,000 square feet of gross floor area; and

9. Manufacturing and resea experimental or testing stations: one space for each 50,000 square feet of gross floor area.
(1985 Code, § 11.13) Penalty, see § 10.99

PLANNED UNIT DEVELOPMENTS

§ 152.065 PURPOSE AND INTENT.

This subchapter is adopted for the purposes of:

(A) Recognizing the economic and cultural advantages that will accrue to the residents of a planned community;

(B) Providing an optional procedure for an area where designation of a single use zoning district and/or application of standard zoning requirements may be too rigid for practical application; and

(C) Encouraging the use of contemporary land planning principles and coordinated community design.
(Ord. passed 4-24-2001)

§ 152.066 DEFINITIONS.

(A) *Generally*. The language set forth in the text of this subchapter shall be interpreted in accordance with the following.

(B) *Specifically*.

(1) This subchapter shall have no effect upon other developments or district requirements as set forth in this chapter.

(2) The minimum area required for a planned unit development (PUD) shall be one acre.

(3) Planned unit developments shall be excluded from requirements of this chapter and specifically approved as a PUD. The exclusions shall only be granted for the purpose of creating better overall design and an improved living environment and not solely for the economic advantage of the developer.

(4) The granting of a PUD permit does not alter in any manner the existing zoning district classification, except that building permits shall not be issued which are not in conformity with the approved PUD permit unless it is amended, cancelled, or modified by other provisions of this subchapter.

(5) Wherever a question arises concerning the interpretation of any provision of this subchapter, it shall be the duty of the Planning and Zoning Commission and the City Attorney to ascertain all facts and forward a recommendation to the Council for a determination.
(Ord. passed 4-24-2001)

§ 152.067 PROCEDURE.

(A) *Generally*. The procedures for obtaining approval of the preliminary development plan of a PUD shall be as follows.

(B) *Specifically*.

(1) *Preliminary discussion*. Prior to filing a petition, any person may request a meeting with the Planning and Zoning Commission or City Engineer to discuss the feasibility of a PUD.

(2) *Petition*. The petition for a PUD shall be on a form provided by the city and shall include all of the following information:

(a) Signature(s) of owner(s) and developer(s);

(b) All data normally required by the city for rezoning application; and

(c) All information and plans comprising a preliminary development plan, as described herein.

(3) *Processing of petition*. The petition for a preliminary development plan of a PUD shall be processed by the city in the same manner in which rezoning petitions are processed as described in this chapter.

(4) *Fees*. The fee for a PUD shall be the same as the fee charged for a rezoning.
(Ord. passed 4-24-2001)

§ 152.068 PRELIMINARY DEVELOPMENT PLAN.

(A) *Generally*. The preliminary development plan of a PUD shall include the following information.

(B) *Specifically*.

(1) An overall plan indicating the proposed use of all areas of the site, including the density, type, and number of stories of all dwelling units, size and use of proposed commercial areas, recreation areas, walkway locations, public streets, and similar features;

(2) A staging plan indicating the proposed sequence and timing of development of all areas of the site. This shall include number of dwelling units, commercial structures, public streets, utilities, and recreation areas; and

(3) A detailed plan of first phase development including buildings, parking areas, driveways, and similar detail, on a site plan and including architectural elevation drawings of all buildings.
(Ord. passed 4-24-2001)

§ 152.069 FINAL DEVELOPMENT PLAN.

(A) The final development plan may be approved in phases along with the progression of development. The final development plan shall be reviewed by the Planning and Zoning Commission with final determination by the Council. A public hearing shall not be required provided the final development plan is in substantial conformance with the preliminary plan. Any major change as determined by the Council shall require a public hearing.

(B) The final development plan for a phase of development shall include the following:

(1) A final plat, if required, adopted in accordance with this chapter;

(2) A final site plan showing all structures, parking areas, driveways, recreational improvements, walkways, and similar detail on a scaled and dimensioned drawing;

(3) A landscape plan showing the location, species, and size of all plant materials. Landscape information shall be located on a grading plan;

(4) A utility plan showing the location and size of all utilities and easements. The utility plan shall include sanitary sewer, water, storm sewer and drainage, electricity, and gas (these may be omitted if plan is required for PUD);

(5) Building plans shall be submitted in detail and in accordance with the State Building Code; and

(6) Covenants, agreements, or contracts governing the use of maintenance of the development shall be filed with the city. Where the information is lacking, the city may require a bond or similar guarantee to ensure that areas held common by persons residing in the development will be developed and maintained.
(Ord. passed 4-24-2001)

§ 152.070 GENERAL PROVISIONS.

(A) Residential unit densities shall be determined as a part of the approval of the PUD.

(1) Final determination on density shall be made when the final development plan for each phase is approved.

(2) In determining densities, the city shall be guided by the City Comprehensive Plan, this chapter, the proposed PUD, the zoning of the property and adjoining area, and similar planning information.

(B) Uses approved and permitted under a PUD shall only include uses permitted in residential districts in the city and those commercial uses specifically approved as a part of the approval of a PUD.

(C) Upon approval of a preliminary development plan, a PUD may not be altered, revised, or withdrawn without the approval of the Council. The approval shall have the same effect as the zoning of the property.

(D) All approved preliminary development plans shall be so designated on the Official Zoning Map as it is revised from time to time.

(1) The map shall be related by number of other means to an approved preliminary or final development plan of a PUD on file with the city.

(2) The plans shall be available for the general public to review.

(E) Enforcement of the provisions of this subchapter shall be the same as for other provisions in this chapter.
(Ord. passed 4-24-2001)

NONCONFORMING USES

§ 152.085 NONCONFORMING SIGNS.

(A) Signs existing on the effective date of this chapter which do not conform to the regulations set forth in this chapter shall become a nonconforming use and shall be discontinued within a reasonable period of amortization of the sign; uses of signs which become nonconforming by reason of a subsequent change in this chapter shall also be discontinued within a reasonable period of amortization of the sign. The period of amortization for signs shall not be more than:

(1) Advertising signs: three years from the effective date of this chapter; and

(2) Business signs: five years from the effective date of this chapter.

(B) Business signs on the premises of a nonconforming building or use may be continued, but the signs shall not be increased in number, area, height, or illumination. New signs not to exceed 35 square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this chapter. The signs may be illuminated, but no flashing, rotating, or moving signs shall be permitted.

(C) No sign erected before the passage of this chapter shall be rebuilt, altered substantially, or moved to a new location without being brought into compliance with the requirements of this chapter. Advertising messages, identification, or information content on sign facings are excluded from this provision.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.086 NONCONFORMING JUNK YARDS.

No junk yard may continue as a nonconforming use for more than two years after the effective date of this chapter, except that a junk yard may continue as a nonconforming use in a commercial or industrial district if, within that period, it is completely enclosed within a building, fence, screen planting, or other device of the height and density as to screen completely the operations of the junk yard. Plans of such a building or device shall be approved by the Planning and Zoning Commission and the Council before it is erected or put into place.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.087 DISCONTINUANCE.

(A) In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

(B) In the event that the use of a nonconforming advertising sign structure is discontinued or its normal operation stopped for a period of six months, the structure shall be removed by the owner or lessor at the request of the Council.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.088 ALTERATIONS.

The lawful use of a building existing at the time of the adoption of this chapter may be continued, although the use does not conform with the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed. Whenever a nonconforming use of a building has been changed to a more restricted use or to a conforming use, the use shall not thereafter be changed to a less restricted or less conforming use.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.089 RESIDENTIAL ALTERATIONS.

Alterations may be made to a residential building containing nonconforming residential units when they will improve the livability of the units; provided, however, that they do not increase the number of dwelling units in the building.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.090 RESTORATION.

No building which has been damaged to the extent of more than 50% of its reproduction value shall be restored, except in the conformity with the regulations of this chapter. This limitation on restoration shall not apply to the restoration of residential homes in a commercial zone and the city shall allow the reconstruction of existing nonconforming residential structures in a commercial zone.
(1985 Code, § 11.14) (Ord. 2005-1, passed 4-26-2005) Penalty, see § 10.99

§ 152.091 NORMAL MAINTENANCE.

Maintenance of a building or other structure containing or used by a nonconforming use will be permitted when it includes necessary, nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming building or use. Nothing in this chapter shall prevent the placing of a structure in safe condition when the structure is declared unsafe by the Zoning Administrator.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.092 NONCONFORMING LOTS OF RECORD.

(A) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any undeveloped single lot of record at the effective date of adoption or amendment of this chapter. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot shall conform to the regulations for the district in which the lot is located. Variance of lot coverage and/or yard requirements shall be obtained only through action of the Planning and Zoning Commission.

(B) If two or more lots or combinations of lots and portions of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold which does not meet lot and width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area less than the requirements stated in this chapter.
(1985 Code, § 11.14) Penalty, see § 10.99

CONDITIONAL USE PERMITS

§ 152.105 APPLICATION.

Application for the issuance of a conditional use permit shall be made to the Planning and Zoning Commission. Any proceedings to classify certain uses as conforming uses as provided in this section may be initiated either by application or by the Planning and Zoning Commission. The Planning and Zoning Commission may hold any hearings on the proposal to issue a conditional use permit as it may consider necessary; but at least one public hearing shall be held on any application for a use permit. Notice shall be given not more than 30 days nor less than ten days in advance of the hearings, by publishing pertinent data regarding the amendment at least once in the official newspaper, and by notifying by mail at least ten days prior to the meeting the property owners of and within 300 feet of the subject property. The Planning and Zoning Commission shall make a report to the Council upon any application for conditional permit and shall recommend to the Council whatever action it deems advisable; but it shall not recommend the granting of a permit unless special circumstances or conditions applying to the building or land in question are peculiar to the property. Also, the granting of the permit will not impair the health, safety, morals, comfort, convenience, or welfare of the persons residing or

working in the neighborhood of the use, or the public welfare or injurious to property or improvements in the neighborhood. It may designate conditions and require guarantees in the granting of use permits in the manner provided in § 152.122, for the granting of adjustments. Upon receipt of the report of the Planning and Zoning Commission, the Council may hold whatever public hearing it deems advisable and shall make a decision upon the proposal to grant a use permit.
(1985 Code, § 11.15)

§ 152.106 CONFORMANCE.

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of the permit and of any conditions designated in connection therewith.
(1985 Code, § 11.15)

ADMINISTRATION AND ENFORCEMENT

§ 152.120 ZONING ADMINISTRATOR.

(A) The Mayor and Council are hereby authorized and directed to enforce all the provisions of this chapter. They may delegate the enforcement of this chapter to any administrative official of the city, and supporting staff if deemed necessary, who shall be directly under the control of the Mayor and Council, and shall be known as the Zoning Administrator. At its first regular meeting in January each year, the City Council shall appoint the Zoning Administrator for the calendar year. The Zoning Administrator may be removed at any time by an affirmative vote of the majority of the City Council. He or she shall submit his or her resignation in writing to the City Council.

(B) The Zoning Administrator shall perform the following duties:

(1) Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms with the provisions of this chapter;

(2) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this chapter. In regard to performance standards, the Zoning Administrator may require the services of a testing laboratory to determine compliance. The cost of employing the laboratory shall be paid for by the owner if a violation of this chapter is established, otherwise by the city;

(3) Notify, in writing, any person responsible for violating a provision of this chapter, indicating the nature of the violation and ordering the action necessary to correct it;

(4) Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions, or alterations; order discontinuance of illegal work being done; or take any action authorized by this chapter to ensure compliance with or to prevent violation of its provisions;

(5) Maintain permanent and current records of this chapter, including all maps, amendments, and variances;

(6) Maintain a current file of all permits, all certificates, and all copies of notices of violation, use, discontinuance, or nonconforming uses for the time as necessary to ensure a continuous compliance with the provisions of this chapter and, on request, provide information to any person having a proprietary or tenancy interest in any specific property; and

(7) Provide technical assistance to the Council and Planning and Zoning Commission meetings as an ex officio member.
(1985 Code, § 11.16) (Ord. passed 11-18-2003)

§ 152.121 BUILDING AND USE PERMITS.

(A) *Generally*. Except as hereinafter provided, no person shall construct, erect, alter, wreck, or move any building or structure or parts thereof within the corporate limits without first securing a building permit from the city. It shall not be necessary to secure a building permit in order to alter, repair, or otherwise change the interior of any residential building provided the proposed alteration, repair, or change will not affect the exterior dimensions of the building or change the existing use and occupancy thereof.

(B) *Application*. Application for a building permit shall be made to the Zoning Administrator on blank forms to be furnished by the City Clerk-Treasurer. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications shall contain any other information as may be deemed necessary for the proper enforcement of this chapter or any code provision.

(C) *Fees*. The fee for a building permit shall be determined by the Council, and may be revised from time to time.

(D) *Issuance*. The Zoning Administrator shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this chapter.

(E) *Certificate of zoning compliance*.

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

(2) Application for a certificate of zoning compliance for a new building or for an existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit as required by division (B) above.

(3) Every certificate of zoning compliance shall state that the building or proposed use of a building or land complies with all provisions of law and this chapter. A record of all certificates of zoning compliance shall be kept on file in the office of the City Clerk-Treasurer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.
(1985 Code, § 11.17) Penalty, see § 10.99

§ 152.122 VARIANCES AND APPEALS.

(A) *Purpose*. The Planning and Zoning Commission, in each case hereinafter provided, shall have the power to grant adjustments in and exceptions to any of the provisions of this chapter to the extent of the following and no further:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this chapter;

(2) To vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of the strict application; and

(3) To permit the extension of a district where the boundary line thereof divides a lot in one ownership at the time of passage of this chapter.

(B) *Application*. Application for any variance permissible under the provisions of this section shall be made to the Zoning Administrator in the form of a written application for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by payment of a fee in the amount as may be set by motion or resolution of the Planning and Zoning Commission from time to time in addition to the regular building fee. Upon receipt of any application, the officer shall schedule a hearing at the regular meeting date for a public hearing before the Planning and Zoning Commission on the application. At least ten days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.

(C) *Review and decision*. The Commission shall thereupon make its decision upon the application and report its recommendation to the Council within ten days after the hearing. In recommending granting any adjustment or variance under the provision of this section, the Planning and Zoning

Commission shall designate any conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation involved; and in recommending denial the Commission shall specify the reasons why the variance cannot be adjusted to meet the purposes of this chapter as to light, air, public health, safety, comfort, convenience, or general welfare.

(D) *Issuance.* No permit shall be issued under the provisions of this section unless and until it is ordered by the Council. The Planning and Zoning Commission shall report its finding with respect thereto and all facts in connection therewith and shall specifically and fully set forth the conditions upon which variance it recommended. Upon receipt of the report, the Council shall by resolution either accept or reject the same and shall either grant or deny the application for permit according to its own determination of the question involved. In all cases in which adjustments or variances are granted under the provision of this section, the Council shall require the evidence and guarantees as it deems necessary to ensure compliance with the conditions designated in connection therewith.

(E) *Conditions for issuance.*

(1) The Planning and Zoning Commission shall not recommend the granting of any application, and the Council shall not grant any application unless they find the following facts: that there are special circumstances or unique conditions affecting the land, building, or use referred to in the application; that the granting of the application is necessary for the preservation and enjoyment of substantial property rights; and, that the granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(2) At the hearing, the applicant shall present a statement and evidence in the form as the Planning and Zoning Commission may require, to show these facts.

(F) *Form of action taken and record thereof.* The Planning and Zoning Commission and Council shall provide for a record of their proceedings, which shall include the minutes of their meetings, their findings, and the action taken on each matter heard by them, including final recommendation, decision, and order.

(G) *Appeals from the decision of the Council.* Any person or persons, or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Council, may seek review by a court of record of the decision, in the manner provided by the laws of the state and particularly by M.S. Ch. 462.361, as it may be amended from time to time.
(1985 Code, § 11.18)

§ 152.123 AMENDMENTS TO THIS CHAPTER.

(A) *Purpose*. The Council may on its own motion, or on request of the Planning and Zoning Commission, or on petition or appeal of the affected property owners:

(1) Transfer land, or a portion thereof, from the district in which it is situated into another district, by amendment to this chapter; and/or

(2) Change any of the regulations of this chapter as to the use or platting of land in any district, or as to the restrictions upon buildings or structures and their placement herein, by amendment to this chapter. Any action of amending this chapter by the Council shall first be reviewed by the Planning and Zoning Commission.

(B) *Procedure*.

(1) An application for amendment shall be filed with the City Clerk-Treasurer in duplicate, accompanied by a fee as determined by the Planning and Zoning Commission. The Clerk-Treasurer shall forward one copy to the Planning and Zoning Commission.

(2) The Planning and Zoning Commission shall schedule and give notice of the time and place of a public hearing on the proposed amendment. Notice shall be given not more than 30 days nor less than ten days in advance of the hearings, by publishing pertinent data regarding the amendment at least once in the official newspaper, and by notifying by mail at least ten days prior to the meeting the property owners of and within 300 feet of the subject property. The current City Assessor's tax records shall be deemed sufficient for the location or certification of ownership of the properties. Following the hearing, the Planning and Zoning Commission shall transmit its recommendations on the application to the Council within 30 days. The recommendation shall be in writing.

(3) The Council, upon receiving reports of the Planning and Zoning Commission, and without further public hearing, may vote upon the adoption of the proposed amendment, or it may refer it back to the Planning and Zoning Commission for further consideration. In considering any amendment, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire city, and for the uses to which the property affected is being devoted at the time; no change shall be effective only if four-fifths of all members of the Council concur in its passage.

(C) *Petition*.

(1) Give the name or names of petitioner or petitioners, and the petition shall be signed by each of them. The address of each petitioner shall be given;

(2) Specifically describe the property to be rezoned, and give the names and addresses of all owners of property owned by each;

(3) State the present zone classification of the area and the proposed zone classification;

(4) State the present use of each separately owned tract within the area, and the intended use of any tract of land therein, if the petitioners, or any of them, have particular use presently in mind;

(5) Show how the rezoning will fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire city;

(6) Be accompanied by three copies of a map showing the property to be rezoned, and the present zoning of the surrounding area for at least a distance of 500 feet, including the street pattern of the area. The map scale shall be 100 feet to the inch when possible; otherwise at a scale to show with reasonable clarity the subject and adjacent land tracts; and

(7) In the case of petition to amend the zoning text, both the existing language of this chapter, and the proposed rewording, shall be submitted with reference to the section and division. Reasons for requesting the change shall be clearly stated on the application which accompanies the petition at the time of filing.
(1985 Code, § 11.19)

§ 152.124 ENFORCEMENT AND FEES.

(A) *Enforcement.*

(1) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the Zoning Administrator, in addition to other remedies, may institute any proper action or proceedings in the name of the city.

(2) He or she shall hereby have the powers of a police officer to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violations, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about the premises.

(B) *Schedule of fees, charges, and expenses.* The Council hereby establishes a schedule of fees and a collection procedure for zoning permits, certificates of zoning compliances, and conditional use permits as required by this chapter. The schedule of fees listed below shall be posted in the office of the City Clerk-Treasurer, and may be altered or amended only by the Council. Permits are not required for remodeling unless the exterior dimensions of a structure are to be altered. No zoning compliance or

conditional use permit shall be issued unless or until the application fees, listed below, shall have been paid in full to the City Clerk-Treasurer, nor shall any action be taken on proceedings before the Planning and Zoning Commission unless or until the following application fees have been paid in full:

Type	*Fee*
Building permit fees	$20: Misc. project, decks, fences, sheds etc.
	$100: Garages
	$250: Homes
	$500: Commercial projects
Variance fee	$100
Conditional use permit	$100
Amendment of ordinance or zoning map fee*	$250
*This involves more time for the City Engineer and Attorney	

(1985 Code, § 11.20) (Ord. passed 12-8-2009)

SHORELANDS MANAGEMENT

§ 152.135 SCOPE.

This subchapter is intended to reduce the effects of overcrowding, prevent pollution of waters in the state, provide ample space for sanitary systems and water supplies, minimize flooding problems, maintain property values, and maintain natural characteristics of shorelands, and provide for the sensible utilization of water and land resources in the city. Shorelands management regulations are adopted pursuant to the authority contained in the Laws of Minnesota 1973, Chapter 379, as it may be amended from time to time, and in furtherance of the policies declared in M.S. Ch. 103A, 103B, 103C, 103D, 103E, 103F, 103G, 115, 116, and 462, as they may be amended from time to time.
(1985 Code, § 11.21)

§ 152.136 DEFINITIONS.

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

BOATHOUSE. A structure used solely for the storage of boats or boating equipment.

CROWDING POTENTIAL. The ratio of total acreage of a water body to shore miles.

NORMAL HIGH WATER 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 ***NORMAL HIGH WATER MARK*** is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

PLANNED UNIT DEVELOPMENTS. A tract of land which may be developed as an integral unit, to incorporate a variety of permitted land use, planned and developed as a unit. The ***PLANNED UNIT DEVELOPMENT*** differs from the traditional subdivision development in that zoning standards such as density, setbacks, height limitations, and lot sizes may be altered between the developer and the Planning and Zoning Commission by agreement for recommendation to the Council. No official action by the Planning and Zoning Commission or Council may be taken until official approval of the development is provided by the State Department of Natural Resources.

SETBACK. The minimum horizontal distance between a structure or sanitary facility and the normal high water mark or between a structure or sanitary facility and a road, highway, or property line.

SHORELAND. Land located within the following distances from water resources: 1,000 feet from the normal high water mark of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

WATER RESOURCES. Any waters in the state which serve or could provide beneficial public purpose. No lake, pond, or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles shall be considered as ***WATER RESOURCES***. The official size of lakes, ponds, and flowages shall be the areas listed in the *Division of Waters, Soils, and Minerals, Bulletin 25, An Inventory of Minnesota Lakes*, or in the event that lakes, ponds, or flowages are not listed herein, official determination of size and physical limits shall be made by the Commissioner of Natural Resources in cooperation with municipalities.
(1985 Code, § 11.21)

§ 152.137 GENERAL REGULATIONS.

(A) Land use development of shorelands shall be controlled by means of zoning district classifications and regulations which are to be compatible with the classifications of water resource areas. Zoning regulations shall remain in effect for the management of land, except that shorelands regulations shall control all development within 1,000 feet of the normal high water mark of all lakes, ponds, and flowages and within 300 feet of all rivers and streams.

(B) Water resources shall be classified by the Commissioner of Natural Resources and established into three categories: natural environment, recreational development, and general development. Classification of water resources in the city shall be in accordance with the provisions of Minnesota Regulations Cons. 1971, as it may be amended from time to time, which identifies: general development as those waters whose shores are presently characterized by industrial, commercial, or high density residential development; recreational development as those waters whose shores are presently characterized by medium density residential development with or without limited service oriented commercial development; and natural environment as those waters whose shores are presently characterized by low density, single-family residential development and those waters whose shores are not yet densely developed shall be classified as either natural environment or recreational development. Any municipality may at any time submit a resolution and supporting data requesting a change in any shoreland management classification of waters within its jurisdiction to the Commissioner for consideration. Official classification of water resources in the city are identified, and shall be referred to in the Official Zoning Map.

(C) No structure shall be erected in the floodway of a river or stream as defined in M.S. § 103F.111, as it may be amended from time to time. In addition to the setback requirements, shoreland standards shall control placement of structures in relation to high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize to accepted engineering standards before construction is begun. The elevation to which the lowest floor, including basement, shall be determined as follows: for lakes, ponds, flowages, and rivers and streams by an evaluation of available flood information and consistent with *Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota*, or placing the lowest floor at a level at least three feet above the highest known water level, or where data is insufficient on high water levels, normal high water mark shall be used.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.138 CONDITIONAL USE PERMIT.

(A) *Generally*. In addition to those uses requiring a conditional use permit under the zoning district classification, §§ 152.021 through 152.029, 152.105, and 152.106, the following items shall also require a conditional use permit as they pertain to this section.

(B) *Specifically*.

(1) Boathouses may be located a minimum of 25 feet landward of the normal high water mark as a conditional use, provided they are not utilized for habitation and that they contain no sanitary facilities.

(2) Placement of piers and dock structures shall be controlled by state and city regulations and require a conditional use permit.

(3) Natural vegetation in shoreland areas shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion. The removal of vegetation shall be controlled by the city, in cooperation with the Department of Natural Resources in accordance with the following criteria:

(a) Clearcutting shall be prohibited, except as necessary for placing public roads, utilities, structures, and parking areas; and

(b) Vegetation shall be restored insofar as feasible after any construction project.

(4) Grading and filling in shorelands areas or any other substantial alteration of the natural topography shall be controlled by this section.

(5) Any work which will change or diminish the course, current, or cross-section of any water resource shall be approved by the Commissioner of Natural Resources before the work is begun. This includes construction of channels and ditches, lagooning, dredging, of lakes or stream bottom for removal of muck, silt, or weeds, and filling in the lake or stream bed. Approval shall be construed to mean the issuance by the Commissioner of a permit under the procedures of M.S. Ch. 103A through 103G or other applicable statutes, as they may be amended from time to time.

(6) Excavations on shorelands where the intended purpose is connection to any water resources, such as boat slips, canals, lagoons, and harbors, shall be controlled by the shoreland standards. Permission for the excavations may be given only after the Commissioner of Natural Resources has approved the proposed connection to the water source. Approval shall be construed to mean the issuance by the Commissioner of a permit under the procedures of M.S. § 105.42, as it may be amended from time to time, and other related statutes.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.139 PLANNED UNIT DEVELOPMENT.

Zoning standards may be altered, as an exception to this section, to allow for planned unit development, provided:

(A) Preliminary plans shall be approved by the Commissioner of Natural Resources prior to any approval by the city;

(B) Central sewage facilities shall be installed which at least meet the applicable standards, criteria, rules, or regulations of the County Health Department, State Department of Health, and the State Pollution Control Agency, or the planned unit development is connected to a city sanitary sewer;

(C) Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, or other methods;

(D) The following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:

(1) Suitability of the site for the proposed use;

(2) Physical and aesthetic impact of increased density;

(3) Level of current development;

(4) Amount and ownership of undeveloped shoreland;

(5) Levels and types of water surface use and public access; and

(6) Possible effects on overall public use.

(E) Any commercial, recreational, community, or religious facility allowed as part of the planned unit development shall conform to all applicable federal and state regulations, including, but not limited to, the following:

(1) Licensing provisions or procedures;

(2) Waste disposal regulations;

(3) Water supply regulations;

(4) Building codes;

(5) Safety regulations;

(6) Regulations concerning the appropriation and use of public waters, as defined in M.S. Ch. 103A, 103B, 103C, 103D, 103E, 103F, 103G, as they may be amended from time to time; and

(7) Applicable regulations of the State Environmental Quality Council.

(F) The final plan for a planned unit development shall not be modified, amended, repealed, or otherwise altered unless approved in writing by the developer, the city, and the Commissioner of Natural Resources; and

(G) There are centralized shoreline recreation facilities such as beaches, docks, and boat launching facilities.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.140 SANITARY PROVISIONS.

(A) Any public or private supply of water for domestic purposes shall comply with State Pollution Control Agency and County Health Department regulations.

(B) Where applicable, all public and private sanitary waste disposal systems shall comply to standards and regulations of the State Pollution Control Agency, the State Department of Health, and the County Health Department in terms of size, construction, use, and maintenance.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.141 ADMINISTRATION.

(A) The city shall provide for the administration and enforcement of this subchapter pursuant to M.S. § 462.362, as it may be amended from time to time. Preparation of this subchapter has been aided by Minnesota Reg. No. 82, 1976, Department of Natural Resources. All building permits, variances and appeals, conditional use permits, and amendments shall follow the regulations set forth in §§ 152.105, 152.106, 152.121, 152.122, and 152.123.

(B) Subdivision regulations shall also be in effect for all shoreland management areas.

(C) Shoreland management areas are identified on the Official Zoning Map, which is a part of this subchapter.

(D) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this subchapter shall be received by the Commissioner of Natural Resources at least ten days prior to the hearings.

(E) A copy of amendments and final decisions granting variances or conditional uses under this subchapter shall be received by the Commissioner of Natural Resources within ten days of final action or amendment.
(1985 Code, § 11.21)

APPENDIX A: TABULATION OF DISTRICT PROVISIONS AND DIMENSIONAL REQUIREMENTS

Requirement	*R-1 District*	*R-2 District*
Building Heights (Maximum):		
Allowable stories	2–1/2 or 35 feet	2–1/2 or 35 feet
Maximum height in feet, principal structure	35 feet	35 feet
Maximum height in feet, accessory structure	15 feet	15 feet
Lot Area Requirements:		
Required minimum total lot area	9,000 square feet, public sewer	6,000 square feet, public sewer
	1 acre (43,560 square feet), private sewer	1 acre (43,560 square feet), private sewer
Required minimum lot area per dwelling unit	First unit - 9,000 square feet, public sewer	First unit - 1 acre (43,560 square feet), private sewer
	Each additional unit - 2,000 square feet, public sewer	Each additional unit - 1/4 acre (10,890 square feet), private sewer
	First unit - 1 acre (43,560 square feet), private sewer	First unit - 6,000 square feet, public sewer
	Each additional unit - 1/4 acre (10,890 square feet), private sewer	Each additional unit - 2,000 square feet, public sewer
Lot width at building line (minimum frontage)	75 feet	50 feet
Lot depth (minimum)	120 feet	120 feet
Allowable percentage of lot coverage (all structures)	35%	50%
Yard Setbacks (Minimum Requirements):		
Front: building line to street line	20 feet	25 feet
Side: building line to lot line (minimum 5-foot separation from principal structure is required)	10 feet	8 feet
Rear: building line to lot line	40 feet	35 feet
Rear: detached accessory structures	5-foot setback required where alley accessory exists; 2–1/2 all other cases	Same as R-1
Corner: building line to either street line of intersecting streets	Front yard setback required for both yards abutting streets	Front yard setback required for both yards abutting streets

Requirement	*R-1 District*	*R-2 District*
Setbacks from district boundary	Not applicable	Not applicable
Special District Requirements:	Not applicable	Not applicable

Requirement	*C District*	*M-1 District*	*M-2 District*	*P District*
Building Heights (Maximum):				
Allowable stories	3	4	Not applicable	2–1/2
Maximum height in feet, principal structure	40 feet	45 feet	–	35 feet
Maximum height in feet, accessory structure	40 feet	45 feet	–	15 feet
Lot Area Requirements:				
Required minimum total lot area	Not applicable	15,000 square feet, public sewer; 1 acre, private sewer	Not applicable	Not applicable
Required minimum lot area per dwelling	Not applicable	Not applicable	Not applicable	Not applicable
Lot width at building line (minimum frontage)	Not applicable	100 feet	Not applicable	Not applicable
Lot depth (minimum)	Not applicable	120 feet	Not applicable	Not applicable
Allowable percentage of lot coverage (all structures)	75%	60%	Not applicable	20%
Yard Setbacks (Minimum Requirements):				
Front: building line to street line	None required	35 feet	Not applicable	25 feet
Side: building line to lot line (Minimum 5-foot separation from principal structure is required)	None required	25 feet	Not applicable	10 feet/encl.
Rear: building line to lot line	20 feet	20 feet	Not applicable	10 feet
Detached accessory structures	5 feet	5 feet	Not applicable	5 feet

Requirement	*C District*	*M-1 District*	*M-2 District*	*P District*
Corner: building line to either street line of intersecting streets	None required	25 feet	Not applicable	25 feet
Setbacks from district boundary	20 feet	50 feet	200 feet	25 feet
Special District Requirements:	§ 152.025	§ 152.026	§ 152.027	Not applicable
NOTES TO TABLE: For the C Commercial District located adjacent to, and on the north side of, State Highway 135, the minimum yard setbacks for front yards shall be 35 feet and the side yards shall be 25 feet.				

(1985 Code, § 11.12) Penalty, see § 10.99

TABLE OF SPECIAL ORDINANCES

Table

I. STREET AND ALLEY VACATIONS

II. ZONING MAP CHANGES

III. CONTRACTS AND AGREEMENTS

IV. FRANCHISES

TABLE I: STREET AND ALLEY VACATIONS

Ord. No.	*Date Passed*	*Description*
3-10-1986	11-5-1986	Vacates alley
-	5-23-1995	Vacates roadway
2005-2	5-10-2005	Vacates alleys
-	11-1-2005	Vacates alleys and a street
-	8-25-2009	Vacates roadway

TABLE II: ZONING MAP CHANGES

Ord. No.	*Date Passed*	*Description*
-	9-17-1985	Rezones various parcels of real property to commercial, residential, recreation, and the like, use
-	7-15-1986	Rezones portion of land to residential use
-	12-12-1989	Rezones various parcels of real property to industrial and residential use
-	10-9-1990	Rezones various parcels of real property to mining use
6-96	7-9-1996	Rezones portions of Gubby's Homesites
-	11-10-1998	Rezones various parcels of real property to recreation and commercial use
-	11-23-1999	Rezones portion of land to industrial use
-	8-19-2003	Rezones portion of land to commercial use
-	11-13-2007	Rezones various portions of land near Lake Ore Be Gone
-	8-12-2008	Rezones various parcels of real property

TABLE III: CONTRACTS AND AGREEMENTS

Ord. No.	*Date Passed*	*Description*
1-90	5-8-1990	Creates Sludge Disposal Site Authority for the city and other communities
1998-1	1-27-1998	Amends Tri-Cities Sludge Disposal Authority Ordinance
1998-2	1-27-1998	Amends Sludge Disposal Site Authority Ordinance

TABLE IV: FRANCHISES

Ord. No.	*Date Passed*	*Description*
1-94	2-8-1994	Grants cable television franchise to D.D. Cable Partners, L.P.
1-95	4-11-1995	Grants gas franchise to Northern Minnesota Utilities, Division of UtiliCorp United, Inc.
–	12-8-2009	Grants Minnesota Power, its successors and assigns, a franchise to construct and maintain an electric distribution and/or transmission system in the city.

PARALLEL REFERENCES

References to Minnesota Statutes
References to 1985 Code
References to Ordinances

REFERENCES TO MINNESOTA STATUTES

M.S.	*Code Section*
Ch. 12	33.01
14.57–14.69	110.36; 110.37
84.86	71.03
84.92–84.928	70.08
88.16–88.22	93.65
Ch. 103A	152.135; 152.139
Ch. 103A–103G	152.138
Ch. 103B	152.135; 152.139
Ch. 103C	152.135; 152.139
Ch. 103D	152.135; 152.139
Ch. 103E	152.135; 152.139
Ch. 103F	152.135; 152.139
103F.111	152.137
Ch. 103G	152.135; 152.139
105.42	152.138
Ch. 115	152.135
Ch. 116	152.135
Ch. 117	Charter, Sec. 9.01
144.391	111.01
157.16	110.03
157.16, Subd. 3d	110.03
Ch. 168	71.01; 90.01; 152.003
168.002, Subd. 31	71.03
168B.011, Subd. 3	93.20
Ch. 169	70.01; 71.01; 90.01
169.011	71.04
169.13	91.08
Ch. 171	71.01
180.03	152.024
205.07	32.02
270.75	112.11
Ch. 273	152.003
Ch. 329	115.03
336.1-201, Paragraph 30	70.08

M.S.	*Code Section*
Ch. 340A	110.01; 110.02; 110.20; 110.23; 110.36; 110.37
340A.101	110.03; 110.22
340A.401, Subd. 1	110.22
340A.404, Subd. 4a	110.22
340A.404, Subd. 4b	110.22
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340A.414	110.35
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340A.504, Subd. 3c	110.22
340A.509	110.02
340A.801	110.25
410.10, Subd. 3	Charter, Sec. 12.23
415.10	30.08
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429.061	93.24
429.101	93.01; 93.02; 93.24; 93.43
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462.353	151.01
462.361	152.122
462.362	152.141
463.15–463.26	93.01
463.17	93.23
469.190	112.14
514.67	93.01
626.862	10.20

REFERENCES TO 1985 CODE

1985 Code	*2010 Code*
2.01	30.01
2.02	30.02
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2.04	30.03
2.05	30.04
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3.30	52.01–52.12
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4.01	150.01

1985 Code	*2010 Code*
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4.03	150.03
4.99	150.04
6.01	113.01
6.02	113.02
6.03	113.03
6.04	113.04
6.05	113.05
6.06	113.06
6.30	114.01
6.31	114.02
6.32	114.03
6.34	114.04
7.01	70.01
7.02	70.02
7.03	70.03
7.04	70.04
7.07	70.05
7.09	70.06
7.99	70.07
8.01	71.01
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8.03	71.03
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9.01	72.01
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9.09	Ch. 73, Sch. I
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10.06	130.02
10.07	130.03
10.08	91.01–91.11

1985 Code	*2010 Code*
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REFERENCES TO ORDINANCES

Ord. No.	*Date Passed*	*Code Section*
–	- -	70.08
2-76	- -	93.02
10.03	- -	92.01; 92.03–92.15
1-85	6-4-1985	71.01
2-85	6-4-1985	50.07
–	9-17-1985	152.020; 152.021; 152.029; TSO II
–	7-15-1986	TSO II
10.08	7-15-1986	91.12
3-10-1986	11-5-1986	TSO I
–	12-12-1989	TSO II
1-90	5-8-1990	TSO III
–	10-9-1990	TSO II
–	5-11-1993	51.01–51.11
–	10-26-1993	152.025
1-94	2-8-1994	TSO IV
–	5-10-1994	112.01–112.16
1-95	4-11-1995	TSO IV
2-95	4-25-1995	31.23
–	5-23-1995	TSO I
1995-1	12-12-1995	Ch. 73, Sch. II
6-96	7-9-1996	TSO II
6-97	6-17-1997	32.02
1998-1	1-27-1998	TSO III
1998-2	1-27-1998	TSO III
–	3-24-1998	71.04
–	6-23-1998	32.01
–	7-14-1998	111.01–111.16
–	11-10-1998	TSO II
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Ord. No.	*Date Passed*	*Code Section*
–	11-23-1999	TSO II
–	9-13-2000	152.023
11.05	11-28-2000	152.021
–	4-24-2001	152.065–152.070
–	11-12-2002	Ch. 73, Sch. I
–	8-19-2003	TSO II
–	11-18-2003	152.120
2005-1	4-26-2005	152.090
2005-2	5-10-2005	TSO I
–	11-1-2005	TSO I
–	7-25-2006	110.01–110.05; 110.20–110.38
2006-2	7-25-2006	152.005
–	2-27-2007	31.22
–	11-13-2007	152.024; TSO II
–	8-12-2008	TSO II
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